333. Also, petition of students of Spencerian School, Cleveland, Ohio, favoring extension of vocational training period; to the Committee on World War Veterans' Legislation.

334. By Mr. NEWTON of Minnesota: Resolution of the Minneapolis Principals' Forum, favoring the establishment of a Federal department of education; to the Committee on Education.

335. Also, resolution of the Minneapolis Principals' Forum, indorsing the entry of the United States into the Permanent Court of International Justice; to the Committee on Foreign Affairs.

336. Also, resolution by the Minneapolis and St. Paul joint local executive board of the United Brewery, Flour, Cereal, and Soft Drink Workers International Union, calling upon the Congress of the United States to conduct an investigation of the so-called Bread Trust; to the Committee on Interstate and Foreign Commerce.

337. Also, resolution by the Central Labor Union of the city of Minneapolis, requesting Congress to investigate the so-called Bread Trust; to the Committee on Interstate and Foreign Commerce.

SENATE

MONDAY, *January 11, 1926*

(Legislative day of Thursday, January 7, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

PNEUMATIC-TUBE SERVICE, BOSTON, MASS. (S. DOC. NO. 35)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Post Office Department, fiscal year ending June 30, 1927, for the reestablishment of a pneumatic-tube service in the city of Boston, Mass., in amount $24,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

CLAIMS OF BETHLEHEM STEEL CO. EMPLOYEES (S. DOC. 37)

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, relative to the claims of certain employees of the Bethlehem Steel Co. under the award of the National War Labor Board of July 31, 1918, "in accordance with the interpretations and the classifications and adjustments made under the direction of the board in pursuance of such award," which, with the accompanying papers, was referred to the Committee on Claims and ordered to be printed.

WITHDRAWALS AND RESTORATIONS OF PUBLIC LANDS

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a report of the Commissioner of the General Land Office, dated January 6, 1926, relative to withdrawals and restorations of public lands under the act of June 25, 1910 (36 Stat. 847), during the period from December 1, 1924, to November 30, 1925, inclusive, which, with the accompanying statement, was referred to the Committee on Public Lands and Surveys.

FRED A. GOSNELL AND RICHARD C. LAPPIN

The VICE PRESIDENT laid before the Senate a communication from the Assistant Secretary of Commerce, transmitting draft of a proposed bill to relieve Fred A. Gosnell, former disbursing clerk, Bureau of the Census, and the estate of Richard C. Lappin, former supervisor of the Fourteenth Decennial Census for the Territory of Hawaii and special disbursing agent in the settlement of certain accounts, which the department recommends be enacted into law during the present session, which, with the accompanying paper, was referred to the Committee on Claims.

PETITIONS AND MEMORIALS

Mr. WARREN presented a petition of sundry citizens of Converse County, Wyo., praying for continuation of the policy of restricted immigration, which was referred to the Committee on Immigration.

He also presented a petition of sundry citizens of Washakie County, Wyo., praying for the repeal or substantial modification of the prohibition enforcement act, which was referred to the Committee on the Judiciary.

Mr. BINGHAM presented a resolution adopted by the Bar Association of Hawaii, favoring the participation of the United States in the Permanent Court of International Justice, with the reservations recommended by Presidents Harding and Coolidge, which was ordered to lie on the table.

Mr. WILLIS presented a memorial of sundry citizens of Hocking County, Ohio, remonstrating against the participation of the United States in the Permanent Court of International Justice, which was ordered to lie on the table.

Mr. COPELAND. Mr. President, I present a petition numerously signed by constitutents who are members and attendants of the Flatbush Congregational Church, of Brooklyn, N. Y. I ask that the petition may lie on the table and that the body of it may be printed in the RECORD.

There being no objection, the petition was ordered to lie on the table and to be printed in the RECORD, as follows:

MEMORIAL TO THE PRESIDENT AND CONGRESS OF THE UNITED STATES

We, the undersigned, members and attendants of the Flatbush Congregational Church, Dorchester Road and East Eighteenth Street, Brooklyn, N. Y., do hereby express ourselves in favor of the entry by the United States of America into the World Court, subject to such reservations as may be deemed advisable by the Congress.

DECEMBER 20, 1925.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FLETCHER:

A bill (S. 2327) for the development of the fishery resources of the South Atlantic States, and other purposes; to the Committee on Commerce.

By Mr. KEYES:

A bill (S. 2329) granting an increase of pension to Leroy E. Smith; to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 2330) for the relief of Phil. P. Goodman, former second lieutenant, United States Marine Corps; to the Committee on Naval Affairs.

By Mr. HARRELD:

A bill (S. 2331) granting a pension to Joseph A. Branstetter; and

A bill (S. 2332) granting an increase of pension to Augusta Myers; to the Committee on Pensions.

A bill (S. 2333) for the relief of Maj. Charles P. Hollingsworth; to the Committee on Military Affairs.

A bill (S. 2334) authorizing the sale and conveyance of certain lands on the Kaw Reservation in Oklahoma; to the Committee on Indian Affairs.

By Mr. BINGHAM:

A bill (S. 2335) for the relief of the Andrew Radel Oyster Co. (with accompanying papers); and

A bill (S. 2336) to reimburse Commander Walter H. Allen, civil engineer, United States Navy, for losses sustained while carrying out his duties (with accompanying papers); to the Committee on Claims.

A bill (S. 2337) to amend the act entitled "An act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, as amended, and for other purposes; and

A bill (S. 2338) authorizing the President to reappoint Chester A. Rothwell, formerly a captain of Engineers, United States Army, an officer of Engineers, United States Army (with accompanying papers); the Committee on Military Affairs.

By Mr. STANFIELD:

A bill (S. 2339) to amend section 27 of the general leasing act approved February 25, 1920 (41 Stat. L. p. 437); to the Committee on Public Lands and Surveys.

By Mr. ODDIE:

A bill (S. 2340) for the adjustment of water right charges on the Newlands irrigation project, Nevada, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. HARRIS:

A bill (S. 2341) authorizing appropriation of $100,000 for the erection of a monument or other form of memorial at Jasper Spring, Chatham County, Ga., to mark the spot where Sergt. William Jasper, a Revolutionary hero, fell; to the Committee on the Library.

A bill (S. 2342) to preserve Fort Pulaski, near Savannah, in Chatham County, Ga., as a national military memorial park on account of its historic interest in Revolutionary times and since; to the Committee on Military Affairs.

A bill (S. 2343) providing for the examination and survey of Ogeechee River, Ga.; to the Committee on Commerce.

A bill (S. 2344) granting a pension to Sarah B. Arnett; to the Committee on Pensions.

A bill (S. 2345) for the relief of the heirs of Bernhard Strauss;

A bill (S. 2346) for the relief of Horace M. Cleary; and

A bill (S. 2347) for the relief of Ambrose A. Campbell; to the Committee on Claims.

By Mr. WALSH:

A bill (S. 2348) for the relief of Nick Masonich; to the Committee on Claims.

By Mr. WADSWORTH:

A bill (S. 2349) to authorize the Secretary of War to sell exterior articles of the uniform to honorably discharged enlisted men; to the Committee on Military Affairs.

By Mr. WARREN:

A bill (S. 2350) granting an increase of pension to Jennie M. Chambers (with accompanying papers); to the Committee on Pensions.

By Mr. BUTLER:

A bill (S. 2351) granting an increase of pension to Frank A. Kendall (with accompanying papers); to the Committee on Pensions.

By Mr. COPELAND:

A bill (S. 2352) granting an increase of pension to Anna M. Hamilton; to the Committee on Pensions.

By Mr. BROUSSARD:

A bill (S. 2353) to amend the military record of Leo J. Pourclau, and for other purposes; to the Committee on Military Affairs.

By Mr. ERNST:

A bill (S. 2354) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for fiscal year ending June 30, 1884, and for other purposes"; to the Committee on Patents.

A bill (S. 2355) granting an increase of pension to Emma Park (with accompanying papers); to the Committee on Pensions.

By Mr. JONES of Washington (for Mr. DU PONT):

A bill (S. 2356) granting a pension to John T. Dickey (with an accompanying paper); and

A bill (S. 2357) granting a pension to Charles W. Robinson (with an accompanying paper); to the Committee on Pensions.

By Mr. KING:

A bill (S. 2358) to permit the admission, as nonquota immigrants, of certain alien wives and children of United States citizens; to the Committee on Immigration.

By Mr. TRAMMELL:

A bill (S. 2359) for the purchase of a site and the erection of a post-office building thereon at Avon Park, Fla.; to the Committee on Public Buildings and Grounds.

By Mr. SHEPPARD:

A bill (S. 2360) for the relief of Fred Hartel and others; to the Committee on Claims.

By Mr. McKINLEY:

A bill (S. 2361) for the relief of Joliet Forge Co.; to the Committee on Claims.

A bill (S. 2362) for the relief of Romus Arnold (with accompanying papers); to the Committee on Military Affairs.

By Mr. STANFIELD:

A bill (S. 2363) to transfer to the classified civil service postmasters in charge of the post offices of the first, second, and third class; to the Committee on Civil Service.

By Mr. MOSES:

A bill (S. 2364) granting an increase of pension to Emily S. Rowe (with accompanying papers); to the Committee on Pensions.

USE OF COPYRIGHT MUSIC ON RADIO

Mr. DILL. Mr. President, I introduce a bill and ask that it be referred to the Committee on Patents. I should like to say just a word about the bill. It is a bill to provide that copyrighted music that is used or permitted to be used on one radio broadcasting station by the proprietor or author shall be available to all broadcasting stations. I think it will bring about a better situation than the present condition of chaos that exists in the use of music over the radio. I ask that the bill be referred to the Committee on Patents.

The bill (S. 2328) to amend section 1 of an act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, as amended, by adding subsection (f), was read twice by its title and referred to the Committee on Patents.

AMENDMENT TO TAX REDUCTION BILL

Mr. ODDIE submitted an amendment intended to be proposed by him to House bill No. 1, the tax reduction bill, which was referred to the Committee on Finance and ordered to be printed.

AMENDMENT TO INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. ODDIE submitted an amendment to the Interior Department appropriation bill, on page 75, line 11, beginning with the word "*Provided*," to strike out the provisos down to and including line 17, on page 77, relating to the Newlands project, Spanish Springs division, Nevada, intended to be proposed by him to House bill 6707, the Interior Department appropriation bill, which was referred to the Committee on Irrigation and Reclamation and ordered to be printed.

SHIPPING BOARD VESSELS

Mr. JONES of Washington. Mr. President, Senate Resolution 86 is now on the table. It calls for certain information from the War Department with reference to the demand on the Shipping Board for transports. I ask that the resolution may be referred to the Committee on Commerce. I also ask that certain letters which I have in my hand may be printed in the RECORD and then referred to the Committee on Commerce. I think the letters give all the facts in regard to the matter. I shall not take the time of the Senate to have them read.

The VICE PRESIDENT. Without objection, Senate Resolution 86 will be referred to the Committee on Commerce, and the letters will be referred to the same committee and printed in the RECORD.

The letters are as follows:

(By special messenger)

DECEMBER 14, 1925.

Hon. T. V. O'CONNOR,
Chairman United States Shipping Board,
Washington, D. C.

MY DEAR MR. CHAIRMAN: I understand that the Budget office has requested the Shipping Board to turn over to the War Department for use as transports two of the five ships of the Admiral Oriental Line running out from Puget Sound to the Orient.

Will you kindly send me as soon as possible a copy of this request and a statement of the reasons given for an action which, if granted, would be most injurious to our merchant marine and our commercial development.

I trust this request of mine will not delay the prompt rejection of the application for the transfer of these ships.

Very respectfully yours,

WESLEY L. JONES.

UNITED STATES SHIPPING BOARD,
OFFICE OF THE CHAIRMAN,
Washington, December 14, 1925.

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.

DEAR SENATOR JONES: I have your letter of December 12 with reference to the ruling of the chief coordinator, Bureau of the Budget, that the Shipping Board turn over to the War Department two of its 535 type vessels or direct the Fleet Corporation to construct two new vessels for the War Department to be used as transports.

I am sending herewith copy of the original letter received from General Smither, the coordinator, and copy of the board's reply, dated December 12.

Very truly yours,

T. V. O'CONNOR, *Chairman.*

OFFICE OF THE CHIEF COORDINATOR,
Washington, December 5, 1925.

Mr. T. V. O'CONNOR,
Chairman United States Shipping Board,
Washington, D. C.

MY DEAR MR. O'CONNOR: The pressure under which the War Department labors in respect to its need for transports has resulted in a recurrence of its demand for the transfer of two of the remaining Shipping Board vessels of the Camden type. The letter from the Assistant Secretary of War, which conveys this demand, also invites attention to the current reports that private interests are negotiating for the purchase of the five 535-foot Camden class ships now operating in the Admiral Oriental line from Seattle to the Orient.

The recent specific case of the *American Legion* and the *Southern Cross* presented an issue so clear-cut and obvious, as far as the interest of the Federal Government was concerned, that I felt no misgiving in deciding adversely to the request of the War Department for the transfer of these particular ships. In considering the general claim for two ships of the Camden type, however, I am unable to disregard the fact that because of statements made by Shipping Board representatives before Congress to the effect that transports could and should be constructed by the Shipping Board, the War Department was not allowed funds to build transports for itself, and that five of the

Camden type ships were actually constructed as transports, with funds diverted from the War Department to the Shipping Board, as a direct result of these representations. I am therefore constrained to consider the War Department's claim as valid up to the point where it becomes incompatible with the best interests of the Government as they are reflected in the policy of nurturing the steady growth of a successful merchant marine.

I have again considered all of the arguments advanced by the Shipping Board in connection with the proposed transfer of the *American Legion* and the *Southern Cross*, since I assume that the facts brought out in the discussion of that specific case are applicable, in part at least, to the general situation. I have also reviewed in detail the policy of the board relative to methods of disposal to private interests of Government-owned vessels. I am forced to the conclusion that in the present piecemeal dispersion of these ships there is absolutely no assurance that the intent of Congress to establish a merchant marine, owned and operated by citizens of the United States, can be safeguarded so long as the controlling interest in the several operating companies is available for purchase by any combination of shipping interests, either foreign or domestic. I am equally convinced that the transfer of two of the Camden type ships to the War Department would be in complete conformity with the policy of Congress in providing for a merchant marine primarily to meet the needs of national defense.

Mindful of these facts and of the implied prohibition existing in the merchant marine act of 1920 of the transfer of title to the Shipping Board of any vessels required by other branches of the Government, the decision of this office in the premise is:

"That the Shipping Board restore to the War Department two of the 535-foot Camden class vessels, originally constructed as transports, with funds intended by Congress to be used for this purpose, or if the restitution of these ships operates to disrupt materially the Shipping Board's liquidation program, that the board authorize the Emergency Fleet Corporation to proceed with the construction of two transports of a similar type, to be turned over to the War Department when completed; the cost of the construction of these transports to be defrayed from Shipping Board funds, thus effecting a return to the War Department of a portion of $33,000,000, which was diverted from its appropriations on the representations referred to in the preface of this communication.

"In view of the magnitude and the far-reaching effects of the questions involved, the period of four days allowed for appeal from the decision of this office as prescribed by paragraph 7 of the Executive Order of November 8, 1921, is waived, and action under this decision is suspended to permit you a reasonable time to prepare any counter argument which you may desire to submit for the action of superior authority."

Very sincerely yours,

H. C. SMITHER,
Chief Coordinator.

DECEMBER 12, 1925.

Gen. H. C. SMITHER,
Chief Coordinator, Room 817, Arlington Building,
Washington, D. C.

DEAR GENERAL SMITHER: Receipt is acknowledged of your letter of December 5, advising that you have determined that the Shipping Board should restore to the War Department two of the 535-foot Camden class of vessels for use as transports, with the alternative that should such restitution operate to disrupt materially the Shipping Board's liquidation program, that the board is directed to authorize the Emergency Fleet Corporation to proceed with the construction of two transports of similar type to be turned over to the War Department when completed, the cost of construction of said vessels to be defrayed from Shipping Board funds.

Section 7 of the merchant marine act, 1920, authorized and directed the board to investigate and determine what steamship lines should be established and put in operation from ports in the United States to world markets, and to determine the type, size, speed, and other requirements of vessels to be employed upon such lines, and the frequency and regularity of their sailings. The board was further authorized to sell or charter vessels to citizens of the United States for the purpose of establishing and maintaining such lines, and in the event it was unable to establish such lines by charter or sale, the board was directed to operate vessels on such lines until the business was developed to a point where such vessels could be sold on satisfactory terms, unless it should appear within a reasonable time that such lines could not be made self-sustaining.

The Shipping Board determined the necessity of establishing a trans-Atlantic line out of the port of New York and a trans-Pacific line out of the port of Seattle, Wash. The trans-Atlantic service is operated by the United States Lines, which company was created by the board. The trans-Pacific service is operated by the Admiral Oriental Line, acting as agent for the board, the trade name of the line being the American Oriental Mail Line.

The board has only seven vessels of the 535-foot Camden type, two of said vessels, namely, the *Presidents Harding* and *Roosevelt*, being operated in conjunction with the steamship *George Washington*, by the United States Lines in its first-class service from New York to Plymouth, Cherbourg, and Bremen. The five remaining vessels, namely, the *Presidents Grant, Madison, Jackson, McKinley*, and *Jefferson*, are operated as the American Oriental Mail Line, furnishing 12 days' service from Seattle, Wash., and Victoria, British Columbia, to Yokohama, Kobe, Shanghai, Hongkong, and Manila over the Pacific short route.

Many millions of dollars have been expended by the board in establishing these important and essential services. To remove either the *Harding* or *Roosevelt* from the United States Lines would necessitate the abandonment of one of its routes, unbalancing its fleet and placing the line in a position where it could not possibly offer formidable competition to the existing foreign trans-Atlantic lines. As a matter of fact, the facilities at the disposal of the United States Lines should be increased rather than decreased. It is further the opinion of the board that none of the five vessels now operated as the American Oriental Mail Line can be taken out of the service without practically abandoning same, thus giving to foreign lines the entire trans-Pacific business from the Pacific Northwest.

You state that you have reviewed in detail the policy of the board relative to methods of disposal to private interest of Government-owned vessels, and that you are forced to the conclusion that in the present piecemeal dispersion of these ships there is absolutely no assurance that the intent of Congress to establish a merchant marine owned and operated by citizens of the United States can be safeguarded so long as the controlling interest in the several operating companies is available for purchase by any combination of shipping interests, either foreign or domestic. For your information it is pointed out that the board is not making a piecemeal dispersion of this type of vessel, nor is its problem one solely of liquidation. Vessels of this type are being sold in groups, constituting established lines. These lines are sold only to companies that qualify as American citizens under the provision of the merchant marine act, 1920. Vessels so sold can not be transferred to foreign flag, and in this connection would refer you to the third paragraph of section 18 of the merchant marine act, 1920, as follows:

"It shall be unlawful to sell, transfer, or mortgage, or, except under regulations prescribed by the board, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, or to put the same under a foreign registry or flag without first obtaining the board's approval."

For your further information the board in the sale of established lines is requiring adequate guaranties for their continued operation, and all contracts provide for forfeiture of said vessels to the board in the event of failure to maintain the service during the required period. It is therefore the position of the board that its sales policy provides absolutely for the continuance of lines and services, the necessity for which it has determined, and, further, that its policy provides for the continuance of the vessels under the American flag, where they are at all times available for the service of the Government in time of war or national emergency.

In view of the foregoing I have to advise you that the board can not comply with your first direction, namely, that the board restore to the War Department two of the 535-foot Camden type vessels for use as transports.

As to the alternative suggested in your decision, namely, that the Shipping Board authorize the Emergency Fleet Corporation to proceed with the construction of two transports of similar type to be turned over to the War Department, the cost of which to be defrayed from the Shipping Board funds, thus effecting a return to the War Department of a portion of the $33,000,000 which is alleged to have been diverted from its appropriations, you are advised that such construction is expressly prohibited by law, and, further, there are no funds available even if authorized.

With reference to the item of $33,000,000 for the construction of transports which is alleged to have been diverted from the War Department appropriation, it might be stated that the War Department, in September of 1919, expressly waived any claim to vessels of the 535-foot Camden type then under construction, and consented to the Fleet Corporation completing said vessels as combination passenger and cargo carriers. Under date of September 30, 1919, the Secretary of War made formal demand upon the Shipping Board for the completion of 11 of the type "B" Hog Island vessels for use as the permanent transport fleet of the Army.

Subsequent thereto these vessels, which otherwise would have been canceled, were completed by the Fleet Corporation, certain of them being changed from Atlantic type transports to Pacific type transports in accordance with the plans submitted by the War Department. Upon their completion 11 of these vessels were turned over to the

War Department, the remaining 1 by consent being transferred to the Navy Department. The $33,000,000 item alleged to have been diverted from the War Department appropriations was originally intended to apply to 11 vessels of the Hog Island "B" type.

The cost to the Fleet Corporation of the 12 Hog Island "B" type transports was $38,798,614.50, the 11 of said vessels which were turned over to the Army costing $35,023,753.85. The delivery of these vessels to the Army was accomplished without transfer of funds.

In the past it has always been the policy of this board to cooperate with your office toward the more efficient operation of the various governmental activities and this policy has not been changed. The board would at this time be very glad to submit to you a comprehensive plan for remedying the difficulties of the War Department in connection with its Pacific transport service. This plan contemplates the moving of troops and Army supplies to Manila in vessels under the United States flag, the private property of American citizens and the United States Shipping Board. It is our belief that such a plan offers many advantages to the War Department at greatly reduced cost to the Government and tends to promote an American merchant marine privately owned.

Very truly yours, T. V. O'CONNOR, *Chairman.*

UNITED STATES SHIPPING BOARD,
OFFICE OF THE CHAIRMAN,
Washington, December 14, 1925.

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.

DEAR SENATOR JONES: I received this morning your letter of December 14 asking for a copy of the request from the coordinator, Bureau of the Budget, and copy of action taken by the board. I had already sent you under separate letter, in answer to your letter of the 12th, copy of the letter from the Bureau of the Budget and copy of our reply, which, I think, meets with your views.

I regretted very much that the coordinator saw fit to render a decision ordering this to be done without first giving us an opportunity to acquaint him with the facts, which he appeared not to have, especially so since at his suggestion, growing out of the conference recently had with him and the War Department concerning application for the transfer of two ships from the Pan American service, it was agreed that a committee of the War Department and the Shipping Board would be appointed to cooperate with the coordinator in seeing what could be done. I named a member of this committee representing me, but we have never heard anything from the coordinator or the War Department with reference to it. You probably know that we have consistently offered to the War Department the *Agamemnon* and the *Mount Vernon.*

Very truly yours,

T. V. O'CONNOR, *Chairman.*

UNITED STATES SHIPPING BOARD,
OFFICE OF THE CHAIRMAN,
Washington, December 19, 1925.

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.

DEAR SENATOR JONES: For your information, I am sending you herewith letter which I have to-day sent to the chief coordinator, in which matter you are, no doubt, interested.

Very truly yours,

T. V. O'CONNOR, *Chairman.*

DECEMBER 18, 1925.

Gen. H. C. SMITHER,
Chief Coordinator, Bureau of the Budget, Washington, D. C.

DEAR GENERAL SMITHER: I have your letter of December 15 announcing the withdrawal of your decision that the Shipping Board turn over two combination passenger and freight vessels of the 535 Camden type to the Army to be used as transports or to construct similar vessels for that purpose.

Among other things, you say you would be glad to receive the plan referred to in my letter of December 12 which may offer increased advantages in transport service to the Army at greatly reduced cost and at the same time promote our national purpose.

The board had in mind the question of moving personnel and supplies of the Army and Navy in commercial vessels under the United States flag belonging to private American citizens or the Shipping Board in substitution of transports now maintained by the Army and Navy. This question has been discussed at various times but no definite action has ever been taken.

In view of the Government's struggle to establish a merchant marine with limited funds with which to absorb the losses on the lines operated by the Shipping Board as mandated by Congress, it seems to us abhorrent from the broad governmental standpoint that the Army and the Navy and the Shipping Board and the private American lines should maintain ships running parallel where it can be avoided. In the interest of the American merchant marine it is vital that every opportunity be given American ships, and nothing is more important than the use of these vessels in the movement of officers and their families, enlisted personnel, and supplies by the Government departments wherever possible. Any particular inconveniences here and there to one department or another should be, it seems to us, subordinated in the interest of efficiency and economy when and if at the same time we meet the common purpose of national defense and promotion of foreign commerce.

The regularity of sailings of American flag vessels from San Francisco and Seattle offers to the Army and to the Navy a more frequent and permanent service than can be maintained by transports now running parallel with these American merchant lines.

The Dollar Steamship Line is maintaining a regular service on a fortnightly schedule with fast combination passenger and cargo vessels bought from the Shipping Board to far eastern ports, including Manila, from San Francisco and return. The Shipping Board, through the Admiral Oriental Line, is operating a similar type of vessel on a 12-day schedule from Seattle to the Orient and return. Of course, there are many other features for discussion and agreement before definite arrangements can be made.

The Dollar Steamship Line service to the Far East consists of two routes: (1) The "trans-Pacific service" from San Francisco, with a weekly sailing (Saturday) to Manila, via Honolulu, Yokohama, Kobe, Shanghai, and Hongkong, the voyage requiring 29 days from San Francisco to Manila, and return on a similar itinerary, the ports in reverse order; (2) "round-the-world service," with vessels slightly smaller, known as the 502's, sailings every two weeks from Los Angeles and San Francisco to Manila in the same order of outward ports of call as in the "trans-Pacific service"; i. e., vessels proceed from Manila to Singapore, Penang, Colombo, and homeward to the Atlantic coast of the United States through the Suez Canal and Mediterranean, constituting only a one-way or outward service. The duration of the voyage on this service is also 29 days from San Francisco to Manila.

These two services provide on an average four sailings a month from San Francisco. From Seattle five vessels, known as 535's, are operated for account of the Shipping Board by the American Oriental Mail Line, with sailings every 12 days to Manila, via Yokohama, Kobe, Shanghai, Hongkong, the voyage requiring 24 days from Seattle to Manila, the voyage being shorter than from San Francisco.

All these vessels carry first-class passengers, and arrangements can be made for the transportation of troops in the present steerage quarters. The frequency of sailings whereby men and cargoes can be moved every few days in large or small numbers or quantities, eliminating the present necessity of gathering together a large body of troops or a large quantity of cargo to await shipment by a certain vessel on a certain date, would be supplied.

It is the policy of the United States as fixed by Congress that we shall do whatever may be necessary to develop and encourage the maintenance of a merchant marine. One of the best means of doing this is through the support which can be given by the Army and Navy in the use of commercial vessels for the transportation of officers and enlisted men and their families and supplies to ports or countries where we have established lines, either privately owned or Government owned.

The British merchant marine is strongly supported in this respect by the War Office and the Admiralty by using commercial steamers.

It is hoped that the War Department's needs and the aims of the Shipping Board in the promotion of an American merchant marine can be better coordinated in the interests of the Government.

Very truly yours,

T. V. O'CONNOR, *Chairman.*

(By special messenger)

DECEMBER 14, 1925.

Hon. HERBERT M. LORD,
Director of the Budget,
Washington, D. C.

MY DEAR GENERAL: I am informed that your office has requested the Shipping Board to turn over to the War Department for use as transports two of the five ships of the Admiral Oriental Line running from Puget Sound to the Orient.

You no doubt know that this is one of the most important lines established by the Shipping Board and that to take away two of these ships will greatly impair if it does not wholly destroy the usefulness of that line. The reasons and facts leading to this request must be most impelling ones and I will appreciate very much a statement of them as soon as possible.

Very respectfully yours,

W. L. JONES.

BUREAU OF THE BUDGET,
Washington, December 17, 1925.

HON. WESLEY L. JONES,
United States Senate.

MY DEAR SENATOR: I am in receipt of your note of December 14, concerning which we had an informal discussion at the White House yesterday. As stated then, the letter addressed by the chief coordinator, General Smither, to the Chairman of the United States Shipping Board was a suspended decision for the purpose of finally bringing to a definite conclusion something of a controversy relative to transports which had been carried on between the War Department and the Shipping Board for some little time. Since the submission of that letter General Smither has received a communication from the chairman of the United States Shipping Board, of which I have been furnished a copy, in which he presents a situation that would be created by a transfer of ships in kind and the inability to accept an alternative in the form of ship construction. On receipt of that letter the suspended decision was definitely withdrawn, the decision of the chairman of the Shipping Board being accepted as conclusive in the matter.

Very truly yours,

H. M. LORD, *Director.*

(By special messenger)

DECEMBER 14, 1925.

Hon. DWIGHT F. DAVIS,
Secretary of War, Washington, D. C.

MY DEAR MR. SECRETARY: I understand that your department has asked that two ships of the Admiral Oriental Line running from Puget Sound to the Orient be turned over to it for use as transports and that a request to this effect has been made to the Shipping Board by the Budget Office.

You no doubt know that this line is one of the most important established by the Shipping Board and that to take two of these five ships would greatly impair if not wholly destroy the line. The facts and reasons that led your department to make such a request must be most impelling. Surely nothing short of a national emergency would prompt a great department of the Government to seek to have done a thing that would affect as seriously the development of our commerce and our merchant marine as this would do.

I would appreciate it very much if you will advise me as soon as possible what the facts and reasons are that your department feels justify such action.

Very respectfully yours,

W. L. JONES.

WAR DEPARTMENT,
Washington, December 19, 1925.

The Hon. W. L. JONES,
United States Senate, Washington, D. C.

MY DEAR SENATOR JONES: I have your letter of December 14, 1925, asking the facts and reasons for the request of the War Department that two ships of the 535-foot Camden class be transferred by the United States Shipping Board to the War Department for use as transports.

In regard to this matter, I regret to state that the present equipment of Army transports on the Pacific Ocean for the run to Manila is rapidly becoming inadequate. This equipment consists of the transport *Thomas*, now 32 years of age, which will undoubtedly become unseaworthy in the near future due to her excessively long service, and the transport *U. S. Grant*, which is unsatisfactory due to the fact that her carrying capacity in passengers is not commensurate with the cost of operation. The *U. S. Grant* is also an old ship, having been built in 1907. Both of these vessels are coal burners and are very slow.

In September, 1918, a representative of the War Department appeared before the congressional committee for the first deficiency appropriation bill of 1919. This representative asked for $22,450,000 for the construction of an adequate fleet of transports for permanent use. Later a representative of the Shipping Board before the same committee was asked if the Shipping Board could build transports for the War Department. The representative of the Shipping Board stated that his organization could and would build transports for the War Department. He further stated that he considered it would be poor policy for two departments of the Government to be building transports at the same time. See hearings before Subcommittee of House Committee on Appropriations for first deficiency bill of 1919, pages 394 and 1322. As a result of the statements of the representative of the Shipping Board the $22,450,000 was not appropriated to the War Department, and the Shipping Board, which was then constructing eleven 535-foot Camden class ships, designated five of them as Army transports with the intention of completing the same as Army transports and turning them over to the War Department.

The appropriation for the Shipping Board in 1919, as shown on page 136 of the third annual report of that organization, was $2,846,701,000. The date set for the transfer to the War Department of five of the 535-foot Camden class ships as transports was January 1, 1920. The ships were not turned over on that date, nor have they ever been turned over. Equipment which was on hand together with that which could be obtained was made to suffice, but a situation is now arising due to the status of the present equipment on the Pacific run which will require that two of the 535-foot Camden class ships be transferred or that the Shipping Board take the necessary steps to procure two suitable ships for the War Department at an approximate cost of $6,000,000. This is not a new proposition. Repeated requests have been made by my predecessor since 1920 and every reasonable effort made to induce the Shipping Board to comply, at least in part, with its obligation, which was fully acknowledged by the director general of the Shipping Board.

The recent request of the War Department to the Shipping Board for two of these ships was first made in the form of a letter from the Quartermaster General to the chairman of the Shipping Board asking that the *American Legion* and *Southern Cross*, then operating on the Munson Line between New York and South America, be transferred. These two ships were asked for by name, due to the fact that they were known to be suited for tropical service. The request was refused by the chairman of the Shipping Board, who gave reasons for the same and offered the *Agamemnon* and *Mount Vernon* instead. The Quartermaster General declined the *Agamemnon* and *Mount Vernon*, due to their great size and the heavy expense necessary to place these ships in proper seaworthy condition as transports, also on account of the excessive cost of their operation.

This office then wrote a letter to the chief coordinator requesting the transfer of the *American Legion* and the *Southern Cross*, but in doing so stated that should these vessels not be available any other two of the same class would be satisfactory. The coordinator held a conference on the matter at which the Shipping Board and the War Department were represented. In the course of the conference the Shipping Board representative stated that for reasons connected with the increase of trade and commerce it would be impracticable to turn over the ships in question and again offered the *Agamemnon* and *Mount Vernon*. The Shipping Board representative was asked what he estimated it would cost to put the *Agamemnon* and *Mount Vernon* in condition as passenger ships and he replied $8,000,000 apiece, or possibly a little less. Such figures would, of course, be prohibitive to the War Department, even if the expense of operating these ships would not require the War Department to greatly increase its appropriations. The result of the conference was a recommendation on the part of the chief coordinator that the department send a representative before the Budget officer for the War Department and Congress with a request for $6,000,000 with which to supply two transports for Army use.

Shortly after the conference the four ships employed by the Munson Line were sold to that firm, which left seven of the 535-foot Camden class ships still under Government control. Five of these are operating from the west coast to the Orient and two are operating from New York to Europe under the direction of commercial firms.

This office has requested two or these seven ships and is very anxious to obtain them, as it would appear from statements above that five of these ships really belong to the War Department in accordance with the promise of the Shipping Board to Congress, made by their representative in September, 1918, and they may be considered to-day as being on the loan status to the Shipping Board.

The latest development in this case is the action taken by the chief coordinator in his letter of December 5, 1925, to the chairman of the Shipping Board, wherein his decision was expressed in the following language:

"That the Shipping Board restore to the War Department two of the 535-foot Camden class vessels originally constructed as transports with funds intended by Congress to be used for this purpose, or, if the restitution of these ships operates to disrupt materially the Shipping Board's liquidation program, that the board authorize the Emergency Fleet Corporation to proceed with the construction of two transports of a similar type to be turned over to the War Department when completed; the cost of the construction of these transports to be defrayed from Shipping Board funds, thus effecting a return to the War Department of a portion of $33,000,000 which was diverted from its appropriations on the representations referred to in the preface of this communication.

"In view of the magnitude and the far-reaching effects of the questions involved, the period of four days allowed for appeal from the decision of this office, as prescribed by paragraph 7 of the Executive order of November 8, 1921, is waived, and action under this decision is suspended to permit you a reasonable time to prepare any counter-argument which you may desire to submit for the action of superior authority."

I trust the above will give you the information desired and will serve to show that the War Department is only trying to secure a part of the equipment to which it is entitled and which is actually required for the proper performance of Government business.

Sincerely yours,

DWIGHT F. DAVIS,
Secretary of War.

TAX REDUCTION

Mr. HARRISON. Mr. President, I ask unanimous consent to have inserted in the RECORD a statement which was issued by the senior Senator from North Carolina [Mr. SIMMONS], the ranking member of the minority of the Finance Committee, published in the papers this morning, giving some of the views of the Democratic minority with respect to the tax reduction bill.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SIMMONS subsequently said: This morning the Senator from Mississippi [Mr. HARRISON] presented to the Senate and asked for incorporation in the RECORD a statement made by myself as representing the minority members of the Finance Committee in regard to the attitude of those members with respect to certain phases of the so-called tax reduction bill passed by the House. I ask now as a part of the statement and to accompany it that there be published together with it a schedule which I now send to the desk of surtax rates proposed by the minority members of the committee in the nature of a substitute for the rates as contained in the bill passed by the House, and I also ask that the two statements be made a Senate document.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Is there objection? The Chair hears none, and it is so ordered.

The statements are as follows:

Senator SIMMONS, ranking minority member of the Finance Committee, in giving out the following statement, said that the statement so given out by him represented the attitude of the minority only as to the items in the bill with which the statement deals, and that there are other important matters in the bill left to be dealt with as they are reached.

STATEMENT

The reductions in taxes proposed by the minority members of the Finance Committee will amount to approximately $500,000,000, and are as follows:

First. We propose reductions in income taxes of $44,000,000 in excess of those provided in the House bill.

We accept the normal tax rates, the personal exemptions, and the surtax rates provided in the House bill upon incomes up to and including $22,000.

But we do not accept the surtax rates in the House bill on incomes between $22,000 and $100,000, and propose with respect to these incomes to so adjust the brackets in the House bill as to provide for a reduction in the surtaxes of the incomes within these brackets of $44,000,000.

If this readjustment—in the interest of equalizing reductions made on incomes in excess of $22,000—is accepted by the committee or the Senate, the minority will accept the maximum surtax rate of 20 per cent as prescribed in the House bill.

The average reduction made in the House bill upon incomes between $10,000 and $20,000 is 25 per cent, upon incomes between $20,000 and $100,000 is 9 per cent, and upon the income in excess of $100,000 is 50 per cent.

The schedule proposed by the minority will provide for an average reduction upon incomes up to $20,000 of 25 per cent, upon incomes from $20,000 to $100,000 of 24 per cent, and on the income above $100,000 of 50 per cent.

Second. The repeal of the capital-stock tax upon corporations. This tax is peculiarly discriminatory against the weaker corporations, and, in addition, is distinctively a nuisance tax.

Third. The abolition of all taxes upon admissions and dues.

The basic question for consideration in connection with tax reduction relates to the amount of money which should be raised by Federal taxation annually for the purpose of reducing the indebtedness of the Government. Under the present law all moneys in the Treasury not specifically made applicable to some other purpose are applied to the reduction of the indebtedness. Under the bill as it comes from the House it is proposed to reduce taxation to the extent of about $325,000,000. If such reduction occurs, the amount applicable to payments upon the public indebtedness will be reduced by that amount.

Necessarily, therefore, we are called upon to consider primarily the amount of revenue which should be raised for the purpose of the reduction of the public debt. Under existing law provision is made for a cumulative sinking fund. In round numbers there is applied to the sinking fund from current Treasury receipts each year $253,000,000 and interest at an average of approximately 4 per cent upon all accumulated investments of the sinking fund.

The present indebtedness of the Government is approximately $20,400,000,000. If this sinking fund is maintained, as contemplated by the present law, it will liquidate the entire principal of the indebtedness of the country, whether represented by bonds, certificates, or other obligations in not more than 32 years. The minority believes that this sinking fund requirement, together with the interest charges, imposes annually upon the taxpayers of the country all the burden which should be borne by them in order to pay off the indebtedness.

Under the present law the $253,000,000 annually set apart as a sinking fund is raised by taxation and used for the retirement of our indebtedness; and in addition to that, the amount annually received (estimated for this year at more than $175,000,000) from our foreign debtors, is likewise applied to the retirement of our indebtedness.

The minority propose to apply to this sinking fund all receipts from foreign governments arising on account of their indebtedness, thereby reducing to the extent of these foreign payments the amount to be raised by taxation for purposes of the sinking fund.

This will enable the Government to pay off its entire indebtedness within 32 years and make provision at the present time for tax reduction of more than $500,000,000 per annum, instead of the reduction of $325,000,000 as proposed by the bill as it comes from the House.

Surtax upon certain net incomes

($20,000 earned income)

MARRIED MAN WITH NO DEPENDENTS

Net income	Surtax under— 1924 rates	Surtax under— H. R. 1 rates	Surtax under— Democratic rates	Per cent of reduction of H. R. 1 from 1924 tax	Per cent of reduction of Democratic rates from 1924 tax
$10,000	0	0	0		
$11,000	$10.00	$7.50	$7.50	25	25
$12,000	20.00	15.00	15.00	25	25
$13,000	30.00	22.50	22.50	25	25
$14,000	40.00	30.00	30.00	25	25
$15,000	60.00	45.00	45.00	25	25
$16,000	80.00	60.00	60.00	25	25
$18,000	140.00	105.00	105.00	25	25
$20,000	220.00	165.00	165.00	25	25
$22,000	320.00	265.00	265.00	17	17
$24,000	440.00	385.00	365.00	[1] 12½	[1] 17
$26,000	580.00	525.00	485.00	[1] 9	[1] 16
$28,000	740.00	685.00	605.00	[1] 7	[1] 18
$30,000	920.00	865.00	745.00	[1] 6	[1] 19
$32,000	1,120.00	1,065.00	885.00	[1] 5	[1] 21
$34,000	1,320.00	1,265.00	1,045.00	[1] 4	[1] 21
$36,000	1,540.00	1,485.00	1,205.00	[1] 3½	[1] 22
$38,000	1,780.00	1,725.00	1,385.00	[1] 3	[1] 22
$40,000	2,040.00	1,985.00	1,565.00	[1] 2¾	[1] 24
$45,000	2,730.00	2,665.00	2,075.00	[1] 2½	[1] 24
$50,000	3,540.00	3,405.00	2,645.00	[1] 3¾	[1] 25
$55,000	4,470.00	4,205.00	3,275.00	[1] 6	[1] 27
$60,000	5,480.00	5,005.00	3,975.00	[1] 8	[1] 28
$70,000	7,780.00	6,705.00	5,485.00	[1] 14	[1] 29
$80,000	10,480.00	8,505.00	7,125.00	[1] 19	[1] 32
$90,000	13,540.00	10,405.00	8,940.00	[1] 23	[1] 34
$100,000	17,020.00	12,305.00	10,765.00	[1] 28	[1] 37

[1] Average reduction, House bill, 9 per cent.
[2] Average reduction, Democratic bill, 24 per cent.
Percentage of reduction in surtax on all net incomes in excess of $100,000, approximately 50 per cent.

CALL OF THE ROLL

Mr. NORRIS obtained the floor.

Mr. CURTIS. Mr. President, will the Senator yield to me to suggest the absence of a quorum?

Mr. NORRIS. I yield to the Senator for that purpose.

Mr. CURTIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	Lenroot	Sheppard
Bayard	Fletcher	McKellar	Shipstead
Bingham	Frazier	McLean	Shortridge
Blease	George	McMaster	Simmons
Borah	Gerry	McNary	Smith
Bratton	Gillett	Mayfield	Smoot
Brookhart	Glass	Means	Stanfield
Broussard	Goff	Metcalf	Stephens
Bruce	Gooding	Moses	Swanson
Butler	Greene	Neely	Trammell
Capper	Hale	Norris	Tyson
Caraway	Harreld	Oddie	Underwood
Copeland	Harris	Overman	Wadsworth
Couzens	Harrison	Pepper	Walsh
Curtis	Heflin	Pine	Warren
Dale	Howell	Pittman	Watson
Deneen	Johnson	Ransdell	Weller
Dill	Jones, N. Mex.	Reed, Mo.	Wheeler
Edge	Jones, Wash.	Reed, Pa.	Williams
Edwards	Kendrick	Robinson, Ark.	Willis
Ernst	Keyes	Robinson, Ind.	
Fernald	King	Sackett	
Ferris	La Follette	Schall	

The VICE PRESIDENT. Eighty-nine Senators having answered to their names, a quorum is present.

FEDERAL AID TO STATES

Mr. BROOKHART. Mr. President, a few days ago I placed in the RECORD a statement with reference to Federal taxes

paid by various States and Federal aid received by those States. By some mistake or error my figures were transposed and I desire to have the statement inserted again for the purpose of correction.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BROOKHART's corrected statement is as follows:

FEDERAL AID TO STATES

Mr. BROOKHART. Mr. President, on yesterday the junior Senator from Pennsylvania [Mr. REED] inserted in the RECORD certain figures showing the amount paid in Federal taxes by the different States and the amount of Federal aid received from the Government in road building and other matters. For a moment or two I desire to present a few figures in explanation of the conclusions he apparently would have drawn from his figures.

For instance, he shows that in Iowa we pay $13,554,243.98 in Federal taxes, and that we draw Federal aid of $2,206,055.97, or 16.28 per cent of the amount we pay. He shows that in Pennsylvania they pay $246,592,155.56, and that they draw in Federal aid $4,631,318.82, or 1.88 per cent. From those figures, of course, he seeks to draw the conclusion that there is a great injustice in the levying of the Federal taxes.

I want to call the attention of the Senate to a different kind of tax that is being levied upon Iowa, and upon all of the agricultural States for that matter. I only use Iowa as an example. That tax is the tax or charge of excess profits. I have here a bulletin from the Department of Commerce of estimated national wealth. The national wealth of the country in 1912 was $186,299,000,000. It increased to $320,803,000,000 in 1922, or about 70 per cent. If we figure that on the basis of compound interest it is about 5.5 per cent a year.

The State of Iowa produced more out of the soil than any other equal spot of ground in the world during that period, and if it had received a fair exchange of its products for the products of Pennsylvania and other profiteering States, it would have increased its wealth greater in proportion than any other State. Iowa's wealth increased from $7,708,000,000 to $10,511,000,000, or about 35 per cent on the basis of simple interest, or compounded at the rate of about 2.75 per cent a year. In other words, although Iowa produced more out of Mother Earth than any other spot it only increased in national wealth by one-half the percentage of the country at large.

We find that the great State of Pennsylvania increased in wealth from $16,225,000,000 to $28,833,000,000, or about 75 per cent. In other words, during the 10-year period referred to Iowa's wealth was $2,800,000,000 less than the average of the United States, and I maintain it ought to have exceeded the average, at any rate. That means that under the system of levying taxes by charging excess profits upon agriculture in the United States, Iowa paid a tax of $2,800,000,000 in 10 years, or $280,000,000 annually, in excess profits to the monopolies and industries, and that is more than the total amount the great State of Pennsylvania paid in Federal taxes.

Therefore, under this situation it seems to me that the idea of Federal aid is wrong. I do not believe that we should build roads by Federal aid. I believe the Federal Government should pay the entire bill and then we would have some chance to even up the excess that is taken from us by the profiteering sections of the country. I do not confine this to my own State. I have only used Iowa as an example. Almost every agricultural spot in the United States has been subjected to the same discrimination, including agriculture in the State of Pennsylvania.

Agriculture in Connecticut, I am informed, right now is practically bankrupt, and yet the wealth of Connecticut during this period increased at the rate of about 9 per cent a year, or nearly double the average of the increase of wealth of the whole United States. The figures that are put out to stop Federal taxation for the benefit of the whole people are based upon conclusions not sustained by the economic situation in the United States. Therefore, I want these facts in the RECORD at this time so that the other view may appear in contrast with the conclusion that might be drawn from the tables presented on yesterday by the Senator from Pennsylvania.

Mr. REED of Pennsylvania. Mr. President, will the Senator from Nebraska yield to me to ask the Senator from Iowa a question?

Mr. NORRIS. I yield, unless the Senator expects to get into a prolonged debate on something that is not now before the Senate.

Mr. REED of Pennsylvania. I will put it in a single question if I can do so.

The Senator from Iowa, in response to some figures I put in the RECORD with reference to Federal aid and Federal taxation of the separate States, raised the question recently that Iowa had not advanced as much in its aggregate net wealth in the last 10 years as had some of the Eastern States, thus justifying in his own mind this system of Federal aid. I would like to ask the Senator whether he has investigated the per capita wealth of Iowa as compared with Eastern States that he says should be compelled thus to contribute?

Mr. BROOKHART. Yes; I have. But the Senator has not fairly stated my proposition. Iowa not only did not advance as much in wealth, but produced more at the same time than the other States. The Eastern States' advance in wealth is in other lines than agriculture. Agriculture is oppressed in Pennsylvania and everywhere else just the same as it is in Iowa.

FEDERAL ESTATE TAX

Mr. BINGHAM. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Franklin Carter, jr., entitled "A useless Federal estate tax," from the December, 1925, bulletin of the National Tax Association.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the December, 1925, Bulletin of the National Tax Association]

A USELESS FEDERAL ESTATE TAX

(Franklin Carter, jr., New York City)

The annual conference under the auspices of the National Tax Association, held at New Orleans, recessed on November 10 to enable the second national committee on inheritance taxation to make its report to delegates appointed from the several States.

The committee was appointed to draw up a plan with the idea of fostering uniformity of taxation in the various States, of providing for comity by reciprocal benefits and harmonious administration, of preventing the overlapping of taxation now existing, and of eliminating the unreasonable confiscation of part or the whole of decedents' estates which has so often happened under the existing laws. The report submitted on November 10 with searching ability has reviewed the important difficulties under our present State and Federal laws. The report is ingenious. It provides that the Federal estate tax shall be continued for a period of six years, and further provides that there shall be permitted as a credit upon the Federal estate tax an amount not exceeding 80 per cent of the Federal estate tax for inheritance and estate taxes paid to the various States.

There was evident opposition to the report, and inasmuch as the principal point of contention was with reference to the immediate repeal of the Federal estate tax, the first resolution which was introduced was a resolution favoring immediate repeal. The vote of the special delegates, by States, on this resolution was 16 to 12 against immediate repeal, and this expression was fostered by an earnest appeal on the part of the committee to support its scholarly and academic report and by a political and sentimental attack upon capital which from an economic viewpoint had no bearing upon the question. The prevailing impression was that the majority of those present were in favor of the immediate repeal of the Federal estate tax.

The following is the recorded vote on the first resolution, that the Federal estate tax should be immediately repealed, by the States represented:

Noes, 16: District of Columbia, Georgia, Illinois, Iowa, Kentucky, Missouri, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, South Carolina, Virginia, and Wisconsin.

Ayes, 12: Massachusetts, Michigan, Minnesota, Montana, New Hampshire, North Carolina, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, and West Virginia.

The vote upon the second resolution, which was to support the committee's report, was consequently carried by a reversal of votes.

If we analyze this report, it is obvious that its sole purpose is to hold a club over the several States, with the thought of compelling them to pass uniform estate or inheritance tax laws, and a perspective of present legislation in the various States does not indicate that it will in the slightest degree assist in this result.

On the floor of the conference the States which had no inheritance tax laws were severely criticized. Florida was even called insane for her present elimination of estate and income taxes. That Florida will find any need of receding from her present stand is doubtful. The freedom from income and estate taxes is but a small part of the allurement which has aroused the interest in Florida. The advent of wealth in Florida will, however, based upon moderate real property and personal property taxes, be sufficient many times over to carry the administration of Florida, and those who are familiar with conditions there know that there is little likelihood of her joining the ranks with some of her sister States which the report of the committee would seemingly like to compel her to do.

The passing of a resolution by a body of individuals that estate and inheritance taxes are sound taxes no more establishes this fact than an act of Congress determines that capital is income.

A review of the cases which support the Federal estate tax, which is now established as constitutional (see Knowlton v. Moore, 178 U. S. 417) is by no means satisfactory as determining the soundness of the tax. It has been generally accepted that such a tax by the Federal Government has been an emergency measure for war purposes or a result of war conditions, and the whole history of such a tax by the Federal Government has shown that when the emergency has ceased such a tax has been repealed. Fundamentally also there is a reasonable basis of argument against the application of such a tax, in that it is within the power of the States to permit the distribution of property by will, and that as the administrators of such property the right is peculiarly that of the States as opposed to the Federal Government, under the laws of which no such right is given. Whether inheritance or estate taxes imposed by States are sound or not, again becomes a question of fact, and while such taxes, when imposed, may be essential for the production of revenue to carry the administration of probate, surrogate's, and orphans' courts for the protection of property and the common welfare, nevertheless when such taxation produces an excess of revenue beyond the needs of such purposes it may become confiscatory of capital, and if confiscatory of capital it is certainly economically unsound. There is to-day no evidence that the revenue derived from the Federal estate tax is necessary.

Many States to-day have adopted a budget system of government, and some have attempted to establish a settled policy in taxation. Where an income-tax policy has been adopted it has been adopted in some cases in theory only and is not applied solely to annually recurring income but has also been applied to the profits received from the sale of property which has been held and accumulated in value over a period of years. It is unquestionably then in part a tax on capital. Nor has it yet been possible to eliminate in an income-tax State a tax on real estate, and in many States a personal-property tax still obtains. Consequently it is not inaccurate to say that neither the Federal Government nor any State has, as yet, adopted a settled and uniform policy of taxation.

Either the Federal estate tax is necessary or it is unnecessary. If it is not necessary, is it sound?

Its continuance means duplication of administrative expense for government; means a continuation and multiplication of Federal tax cases; means a delay in the administration and distribution of estates, and often, too, a forced sale of property at a loss in order to pay the taxes which are now required.

Under the proposed report of the national committee on inheritance taxation it is recommended that a credit up to 80 per cent of the Federal estate tax be allowed for State inheritance and estate taxes paid. In many instances this means a net yield to the Federal Government of 20 per cent only. Is the maintenance of the machinery of the Federal Government and the inconvenience to the country justified by the amount of revenue which would be thereby derived? There are rights which belong to the States. There are rights which belong to individuals. There are rights which belong to the dead and their successors. Such a measure proposes to slice from the decedent's estate, with no net gain to the Federal Government or to the States, a portion of his property as a penal measure upon States which do not fall in line. It reduces the family resources at a time when they are most needed.

The committee report is scholarly in its research, but its dominating idea shows that it is framed by theorists who have little or no conception of its practical application, and if there are those on the committee who have had any considerable experience in the handling of the Federal estate tax, it is evident that they have not been heard. The report from a practical viewpoint is not convincing, and from a political viewpoint is certainly questionable. Who is to gain by the adoption of such a measure? Not the Federal Government, since its net revenue, with reduced rates, is not increased and may not cover its administration of the estate tax. Not the States, because they obtain no increase in revenue by the adoption of such a measure. Not the administrator or executor, because all additional expenses are in any event charged against the estate. And every estate is, therefore, to contribute through Federal compulsion to a futile attempt to coerce other States. It would continue all the machinery of administration and collection of the estate tax to no one's good. It is pure economic waste. Why not repeal the Federal estate tax now?

ALUMINUM CO. OF AMERICA

Mr. REED of Pennsylvania. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing this morning in the New York American with regard to the investigation of the Aluminum Co. of America by the Federal Trade Commission.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York American, January 11, 1926]

UNFAIR TRADE METHODS FAIL TO MEASURE UP TO CHARGE—TRADE COMMISSION UNABLE TO SUBSTANTIATE COMPLAINT MADE AGAINST MELLON CONCERN—EVIDENCE WHICH SENATE CLAIMS WITHHELD WILL CLEAR ORGANIZATION WHEN TRIAL COMES UP

(By John A. Kennedy, Universal Service staff correspondent)

WASHINGTON, January 10.—After an exhaustive investigation covering more than 16 months the Federal Trade Commission finds itself unable to substantiate its own complaint that the Aluminum Co. of America is guilty of unfair business practices and will be so compelled to admit, it was learned from the commission to-day.

Not only is the commission unable to prove the charges alleged in a complaint issued in October, 1924, but in the opinion of its own investigators should give the Aluminum Co. of America a clean bill of health.

PROBE BASED ON REPORT

It is this complaint against the alleged aluminum trust that formed a basis for the present investigation by the Senate Judiciary Committee, now being prosecuted by Senator THOMAS WALSH, Democrat, of Montana.

It is contended by Democratic members of the Senate committee that in failing to prosecute the Aluminum Co. the Department of Justice ignored vital evidence obtained by the commission. They further contended at the hearing that the commission itself has refused to make available to the department certain incriminating documents.

Not only has the Federal Trade Commission been unable to find evidence upon which to convict the Aluminum Co. of illegal trade practices, but the very evidence which the Senators allege was withheld by the commission will, when made public, clear the company of the charges alleged in the complaint, Universal Service was informed by a high official of the commission to-day.

PROCEED WITH TRIAL

The Federal Trade Commission, however, will not dismiss the complaint in the present case, as is customary when it lacks evidence to support a charge. Instead it will go through with the trial so it can not be accused of "whitewashing" the Aluminum Co. because Secretary of the Treasury Mellon owns controlling stock interest, it was stated.

The majority of the commission prefers, in view of the furore in Congress, to present to the public all the facts it has been able to assemble through witnesses who will be called by both prosecution and defense when the case comes to trial four or five weeks hence.

The charges against the Aluminum Co. of America now before the Federal Trade Commission were originally filed by the Edward G. Budd Manufacturing Co., of Philadelphia, it was learned to-day.

The Budd Co., the evidence alleges, entered into a contract with the Aluminum Co. of America for delivery of a certain quality of sheet aluminum to be used in making automobile bodies.

CONTRACT DISAGREEMENT

A condition of the contract, agreed upon by both parties, was that in return for certain price concessions the Budd Co. was to return all scrap aluminum left from each sheet to the Aluminum Co.

Later the two concerns came to loggerheads, it is alleged, over the meaning of certain terms of the contract as to precisely what constituted scrap that should be returned.

Shortly thereafter, according to the commission's investigators, the Budd Co. made complaint to the Federal Trade Commission that the Aluminum Co. was forcing all of its customers to return all scrap.

After reviewing the complaint, examiners for the commission referred it to the board of review, and it finally reached Commissioner Van Fleet.

Upon the principle that if the Aluminum Co. was forcing all its customers to enter into contracts similar to the one it had with the Budd Co., it was engaged in unfair business practices, Commissioner Van Fleet, it is said, ruled that a formal complaint should be filed.

OTHER COMPLAINTS FOLLOW

While the complaint filed by the Budd Co. was the basis of the case, other complaints were made against the Aluminum Co. by various manufacturing and selling agencies in the aluminum field.

Investigators were sent to check all the evidence that could be found from every source. The results of their findings, now practically complete, are in the hands of the lawyers who will prosecute the case for the commission.

Although the investigators have done their utmost, the evidence they have been able to find is not sufficient to support the case, one official stated to-day.

Even the companies which made complaints to the Federal Trade Commission, it developed, were unable to help the commission support

its charges, it was explained to-day. Many such concerns had apparently suffered a change of heart as regards the practices of the Aluminum Co., it was asserted.

In some quarters it was suggested that even the Budd Co., which filed the original complaint, is now on friendly terms with the Aluminum Co.

During investigations in 1923 and early in 1924 the commission found that corporations were becoming more and more reticent about giving voluntary access to books and files.

Some corporations argued that when the commission was given permission to look over its books the information thus obtained immediately reached the Department of Justice and caused them trouble.

If the Department of Justice wanted information from their books, these corporations contended it had a perfectly legal way to obtain it by swearing out subpœnas.

In the summer of 1924 this problem became even more acute with the result that in February, 1925, a rule was voted whereby the commission agreed to hold information given voluntarily in confidence.

SECRETS GUARDED

The aluminum case was the first affected by this ruling. When the Department of Justice called for certain documents that had been delivered in confidence to the commission by the Aluminum Co., it was informed that the commission would be glad to comply, provided permission was first obtained from the company. It had not the smallest doubt that such permission would readily be given as the information obtained in the desired documents is understood to be largely in favor of the company.

A few weeks ago, it was pointed out, when the Department of Justice started an investigation of the alleged Bread Trust, the commission was in precisely the same position with regard to certain files of the Continental Baking Corporation.

As in the case of the Aluminum Co. the commission suggested that if the department would wire the baking corporation for permission to see the files, the request would be granted.

On that occasion the department did as suggested and obtained the files.

The Senate committee will resume the aluminum investigation Tuesday.

Mr. WALSH. Mr. President, this morning the Senator from Pennsylvania [Mr. REED] had inserted in the RECORD an article from the New York American concerning the investigation of the Aluminum Co. of America. The letter inextricably confuses two entirely different matters and leads to a very erroneous conclusion concerning the situation of affairs.

I ask unanimous consent to have printed in the RECORD, with the article referred to, an editorial appearing in the New York Journal of Commerce of to-day upon the same subject.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the New York Journal of Commerce, January 11, 1926]

"I DO NOT KNOW"

The present-day politician who assumes with blithe or unconscious ignorance the duties of a high office runs grave risks. With increasing frequency he finds himself the victim of the cruel but no longer unusual punishment of having to reveal his lack of knowledge to special investigators who revel in extracting admissions of ignorance while presumably delving for facts.

Inquiry by the Senate Judiciary Committee into the affairs of the Aluminum Trust has begun most inauspiciously for the new Attorney General, *whose testimony so far can be compressed into one briefly inclusive answer: "I do not know."* The result of this method of approach is that public interest is likely to be deflected from the affairs of the Aluminum Trust to a probe of the competency of the Attorney General. Since a Cabinet officer is primarily a political appointee who may, but more frequently does not, know and often never learns much about the technical details of departmental business, it is a very serious matter to subject him to the ordeal of public examination. How far then is a congressional investigating committee warranted in pushing its inquiries after it has become evident that it will elicit nothing beyond the words, "I do not know"?

Is there any way of distinguishing between what an Attorney General ought to know and what he may properly leave to the regular departmental wheel horses as a matter of day-to-day routine? *At least it can be expected that the head of the Department of Justice will have a clear conception of its general policies, will know something about the progress that has been made in the prosecution of important cases, and will hold an opinion concerning his legal right to obtain pertinent information from the Federal Trade Commission.*

Unfortunately, the evidence appears to show that the Attorney General is *devoid of a point of view as well as destitute of a knowledge of facts.* He might be forgiven for not having plodded through detailed data regarding the Aluminum Trust, although with an investigation in prospect ordinary prudence would have dictated a little overtime work. It is less easy to understand why he does not know if, when, or how much evidence has been obtained upon request from the Federal Trade Commission or whether any correspondence has passed between the two departments since he took office.

Confronted with a resolution of the Trade Commission, which voted not to permit an inspection of evidence obtained from the Aluminum Co. of America, the Attorney General again professed not to know whether he could legally force production of this evidence. Indeed, he indicated a certain sympathy with the commission's action on the ground that the success of its efforts to find out about trade conditions depended upon guarding material confidentially obtained. In answer to this argument the Attorney General's attention was called to the fact that the Trade Commission's resolution did not embody an interpretative reservation. Furthermore, if collection of evidence involves subsequent refusal to reveal it, the question arises, Why gather it at all?

On general matters, such as those covered by the Judiciary Committee in its examination of the Attorney General, *a plea of ignorance is equivalent to a confession of incompetency, unless it is to be assumed that it is a deliberate device to cover a masterly program of inaction. Under the circumstances the Judiciary Committee can only proceed swiftly with its work of questioning those subordinates to whom the actual work has been left.* Their departmental head says he is sure they are laboring diligently.

SENATOR FROM NORTH DAKOTA

The Senate resumed the consideration of the following resolution (S. Res. 104) reported from the Committee on Privileges and Elections:

Resolved, That GERALD P. NYE is not entitled to a seat in the Senate of the United States as a Senator from the State of North Dakota.

Mr. NORRIS. Mr. President, I desire, if I can, to clear away from the senatorial atmosphere some of the technical legal objections that have been made to the admission of Mr. NYE as a Senator from North Dakota. Before I proceed with a short analysis of what I believe to be the law that should govern in this case, I want the Senate to understand my viewpoint, a viewpoint which I shall try to convince the Senate it ought to take in passing on this very important question.

We have knocking at our doors a man armed with credentials from the Governor of North Dakota appointing him to fill a temporary vacancy until the electors of North Dakota shall fill such vacancy by an election. We are not trying a criminal; we are not dealing with technical, hair splitting legal objections. We ought, as I shall try to show, to consider the question in the broadest kind of light. There is no question here of fraud; there is no question here of deceit or deception; there is no question of bad faith. Everything that has been done by the State of North Dakota has been done openly and above board, in the face of the entire world.

There is no question about the qualifications of the man who is here knocking for admission. No crime is charged; no intentional violation of duty is charged against anyone. It is conceded by all that every step has been taken in best of faith, honestly and fairly, in the open light of day.

It has been said, and it is admitted, I think, that government abhors a vacancy in public office, and if, by any fair construction, the vacancy can be filled by such construction, it is the duty of the court or of the body passing upon the question to give the construction that will fill the vacancy. I take it that it will not be denied that the law that should govern us now is that if, when we shall have considered all phases of the contest we should be in doubt as to how we should vote, we should resolve that doubt in favor of the admission of Mr. NYE to this body. I do not believe that will be disputed.

We must remember also in considering this case that every objection that has been made against Mr. NYE's admission is a technical legal objection.

Mr. SHORTRIDGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from California?

Mr. NORRIS. I yield to the Senator.

Mr. SHORTRIDGE. Before the Senator proceeds further, will he have the goodness to give his definition of a technical objection?

Mr. NORRIS. I am going to do it before I get through, but I will give the Senator a sample of a technical objection now. A technical objection was made by the Senator from West Virginia [Mr. GOFF] in the opening of this debate. By the way, I think the Senator made a very able, exhaustive, and

comprehensive argument. However, he made the lawyer's argument for his client. All the way through that long and able address he called our attention to legal technicalities. I will cite one. He referred to the Blount case, which I am going to take up before I get through if I shall not forget it, and casually remarked that that case was 100 years old; but in a very few minutes he was citing the opinions of lawyers which were given more than 100 years ago—they were very able opinions, I concede—that a Senator is a Federal officer. The Senator from West Virginia then weighted down that argument with the statement that these opinions were given by men 100 years ago, when it must be conceded that the adoption of the Constitution of the United States was fresh in the minds not only of themselves but of the people. That is an attempt, it seems to me, to take a technical advantage against Mr. NYE. The Blount case, 100 years old, which was decided in the same light in which the other opinions were given is not to be allowed very serious weight because it is too old; but the opinions given at the time of the Blount case was decided by men who were opposed to the decision rendered then by the Senate, are entitled to weight because they were almost contemporaneous with the adoption of the Constitution. You can take your choice of the arguments.

Going back now, Mr. President, I believe I was about to read from the Constitution, bearing out as I think it does, my statement that we ought to give a liberal construction favorable to the filling of this office when we pass upon this question. Section 5 of Article I of the Constitution so far as it applies here reads as follows:

> Each house—

That is, speaking of the Senate and the House of Representatives, so that it means the Senate and the House of Representatives—

> Each House shall be the judge of the elections, returns, and qualification of its own Members.

What is the object of that? I take it that our fathers gave to this body the right finally to pass upon these questions without appeal to any court, to any technical judicial tribunal, in order to afford the Senate the greatest possible freedom in passing upon them, and that, therefore, we were given by constitutional provision almost a command to the effect that in passing upon the qualifications of our Members our latitude should be wide, our consideration should be broad, and we should pass upon them without regard to technicalities such as any lawyer in a case before a court might be able to find in conflicting opinions.

What happened here? First we adopted the seventeenth amendment. For what does it provide? For the election of Senators by the people; second, for the election of Senators to fill vacancies; third, for the temporary appointment of persons to fill vacancies in the senatorial office until the people can elect. North Dakota has done all that, not perhaps in the way that the technical lawyer would say it ought to be done, but in good faith, for concededly in good faith she has taken everyone of those steps. The vacancy occurred; the governor has called a special election; he has appointed a man temporarily to fill the vacancy until the result of that special election shall be known. Nobody denies that; that is conceded by all. Has not North Dakota, therefore, in every way complied with the spirit of the seventeenth amendment? If a lawyer by hair-splitting technicalities can show you where a "t" has not been crossed or an "i" dotted, are you going, with the liberal powers which the Constitution gives you, to say that the voice of North Dakota shall be silent and her representative shall be excluded from the Chamber? I repeat, North Dakota has taken every single step contemplated by the seventeenth amendment.

Let me read another provision of the Constitution, in so far as I think it applies here. I read the very last sentence of Article V of the Constitution:

> No State, without its consent, shall be deprived of its equal suffrage in the Senate.

Has North Dakota consented that she shall be deprived of her equal representation? Although she may not have satisfied the ideas of some as to the way she should proceed, has she not concededly in good faith tried to carry out every provision of the seventeenth amendment; and, having done that, are we going to say now, in the face of the Constitution of the United States, that she shall be deprived of her representation here without her consent? It seems to me, Mr. President, that if we will do our duty as the Constitution of the United States has given us authority to do it we must resolve every substantial doubt in the procedure in favor of giving North Dakota representation here. She has taken every step provided for by the seventeenth amendment; she has done it honestly and aboveboard. There is no question but what she has done it; everybody admits it, and the Constitution says we shall not deprive her of representation here unless she consents to it. Every step that she or any of her officials have taken shows conclusively, without contradiction, that she has tried her best to comply with the seventeenth amendment. She has done it in her own way, in the best of faith, and her representative is now knocking at our door.

Let me say I am not here claiming that this question is free from doubt, if one wants to be technical about it. I *am not* going to decide whether a Senator is a State officer or a Federal officer. I confess that I am in doubt about it. I think there is not any question, if we want to be fair with each other, that the Supreme Court of the United States has held both ways. A decision can be found to back up either proposition. That very fact brings to my mind a sufficient reason why I should vote for the admission of Mr. NYE to this body. When the Supreme Court is in doubt and when able Members of the Senate are in doubt, ought it not create a doubt in the ordinary lay mind as to what is technically right? But when technicalities are brushed aside there remains no doubt.

In the Burton case the Supreme Court in its decision, so far as the opinion applies here—and the opinion was rendered, as I remember, by Associate Justice Harlan, one of the ablest men who ever sat on the Supreme Bench—said:

> While the Senate, as a branch of the legislative department, owes its existence to the Constitution, and participates in passing laws that concern the entire country, its Members are chosen by the State legislatures and can not properly be said to hold their places under the Government of the United States.

I know that the technical lawyer says that for that particular purpose the Supreme Court held that Senator Burton was not a civil officer of the United States, and I will not quarrel with that technical conclusion. I do not care. To my mind it is a rather fair statement by the Supreme Court that a United States Senator is a State officer. I am aware that in the Lamar case they decided the other way; and yet the technical lawyer says that in the Lamar case it was held that for the purpose of the statute in that case, which provided a penalty for impersonating a Federal officer, he was a Federal officer. I read an opinion some time ago from a lawyer for whom I have the greatest respect, analyzing those two opinions, and he said they do not controvert each other. We reach the conclusion from them that a Senator for some purposes may be a State officer, and for other purposes may be a Federal officer.

I am not going over the proposition that our salaries are paid by the Federal Government, that we labor here for the entire country instead of a State, nor am I going to take up the other side and say that a Senator is elected by the people of a State, that he is an ambassador of the people of a State, that he resigns—if he resigns—to the governor of a State, and never notifies the Federal Government of it, the Federal Government not necessarily having any notice of the vacancy, but the notice of the vacancy going to the State. All those are arguments on each side. The point I want to make, Senators, is that while that question is clothed in serious doubt, it is our duty to resolve that doubt in favor of the admission of Mr. NYE from North Dakota.

I think it is fair to state that the Supreme Court has held both ways. I am not quarreling, however, with the lawyer who says that the Supreme Court ultimately may definitely say that for some purposes a Senator is a State officer and for some purposes he is not a State officer but is a Federal officer.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Virginia?

Mr. NORRIS. I do.

Mr. SWANSON. While the Senator is discussing the Burton case I desire to observe that the Supreme Court certainly decided in the Burton case that as Senator Burton was elected by the legislature he derived his authority from the State, and to that extent was a State officer. Now, here the governor makes the appointment. The governor is as much State authority as the legislature of a State, is he not?

Mr. NORRIS. Yes.

Mr. SWANSON. Therefore, regarding the appointment of the governor, if the Burton case stands as the opinion of the Supreme Court, when the appointment is made by the governor of a State he is appointing the Senator by State authority the

same as Senator Burton was elected by State authority, namely, the legislature, and consequently he is a State officer.

Mr. NORRIS. I should say that, even though we conceded that for some purposes a Senator might be a Federal officer, when the Burton case says that on account of his election for that purpose he is a State officer certainly it would apply here, although in this case we are dealing with an appointment instead of an election, the authority coming from the same source, namely, the State.

If a Senator is a State officer, then the governor had absolute authority to appoint Mr. NYE. I do not believe anybody can seriously question that, although in the technical argument made by the eloquent Senator from West Virginia [Mr. GOFF] he did question it. I am not even going to stop to argue the matter. It seems to me too hairsplitting a technicality to take the time of the Senate to discuss. The law of North Dakota, passed by the Legislature of North Dakota after the enactment of the seventeenth amendment, provided that the governor had a right to fill the vacancy by appointment. The language used was that he should have that power in State and district offices.

Take that particular provision of the law, which is part of section 696—look at the title of that act—see what it says and see if that will not throw some light on the matter. At that time, under the Constitution of the United States, if the legislature provided the necessary legislation, the governor did have authority to fill these vacancies by appointment. That law was passed in 1907, and its title reads:

SEC. 696. Vacancies, how filled: All vacancies except in the office—

And so forth.

You will observe that it says "all vacancies." All vacancies that might occur, that by any construction of law the governor had the right to fill, he is given authority to fill. That it is important to consider the intention of North Dakota in getting this matter settled properly there is no doubt, I think. North Dakota, by initiating a law that was passed and is now on the statute books of that State, provided for the recall of Members of the Senate and Members of the House of Representatives.

Every citizen of North Dakota must know that that State can not recall an officer if he is not a State officer. No one will contend otherwise, and when North Dakota deliberately passed a law that provided for the recall of Senators there is not any doubt in my mind that North Dakota believed that a Senator was a State officer.

It is not necessary that we agree with North Dakota, as I said, but even those who are opposed to the admission of Mr. NYE concede that the intention of North Dakota is an important thing to consider in giving a proper construction to the law. Let me pause here to say that according to my idea of the construction of laws and statutes, where a law is plain on its face and admits of only one construction you can not go behind the law to get the intention of the legislature or of the people who enacted it, but where there is any doubt as to what it means or what the intention of the law-making body was, then it is always proper to consider what they had in mind and what was their real intention, and I concede very frankly that there is doubt about this law.

Mr. President, on that question I am going to discuss a portion of the constitution of North Dakota.

Section 78 of the constitution of North Dakota reads as follows:

When any office—

Remember, it says "any office"—

shall from any cause—

Remember, again, that it says "from any cause"—

When any office shall from any cause become vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

That provision of the constitution was enacted long before the seventeenth amendment. It was not enacted, however, before there was a live question as to changing the Constitution of the United States so as to provide for the election of Senators by a vote of the people. It is not any stretch of the imagination to say that it was enacted in anticipation of that law, and the Senator from West Virginia [Mr. NEELY] has put into the RECORD opinions from the Supreme Court of Texas and the Supreme Court of Connecticut, where statutes were passed prior to and in anticipation of constitutional amendments and afterwards held to be valid. I think no lawyer will say that that is not good law; that it is perfectly competent for a legislature to pass laws in anticipation of a change in the constitution of the State. The laws will be of no effect, of course, unless and until the constitution is changed so as to give them effect.

The Senator from West Virginia [Mr. GOFF], however, in arguing this constitutional provision of the State of North Dakota, passed it by with a rather flippant attitude, and said:

Oh, that was passed long before the adoption of the seventeenth amendment.

Let us see whether that should be even a technical argument that it is not entitled to consideration.

Suppose that after the adoption of this amendment the legislature should provide for an officer that was not provided for in the constitution—suppose we say a State superintendent of public schools—and they should have an election and elect a man to fill the office according to the statute, and that after his election and installation in his office he should die. Is there any person who would doubt but that the governor could appoint his successor if the legislature had not made any provision for such an appointment? I do not believe that anybody will contend that for a single moment.

Suppose, as actually happened in one of the States with which I am familiar, a legislature provided by law for a new county officer, a register of deeds. Prior to that the work that was given to the register of deeds in the new act was performed by the county clerk; and they separated the duties of the county clerk, and provided for a new officer that was called a register of deeds. Suppose that should occur in North Dakota, with that provision of the constitution in force, and suppose the legislature in providing for this new officer had failed to make any provision about the filling of a vacancy in case of resignation, death, or removal, and suppose after a register of deeds had been elected and installed in office he resigned. Is there anyone who would question the authority of the governor to make an appointment to fill the vacancy? I do not believe anyone can question it. It is as broad as human language can be made. The provision is that all vacancies from any cause, where not provided for by law, shall be filled by the governor.

Now, I am going to take up, Mr. President, on the question of a Senator being a Federal or a State officer, the action of the United States Senate. As I read it, the Senate has definitely passed upon this exact case. I can see no escape from it.

Mr. Blount was a Senator from Tennessee. He was impeached by the House of Representatives, and the impeachment proceedings were sent over here, and the Senate was sworn in as a court to try him. When they got ready for trial his attorneys filed this plea questioning the jurisdiction of the Senate, which was then acting as a court to try Mr. Blount. This was the language of the demurrer, as perhaps it might be called:

That although true it is that he, the said William Blount, was a Senator of the United States from the State of Tennessee at the several periods in said articles of impeachment referred to, yet that he, the said William, is not now a Senator, and is not, nor was he at the several periods so as aforesaid referred to, an officer of the United States; nor is he, the said William, in and by the said articles charged with having committed any crime or misdemeanor in the execution of any civil office held under the United States, or with any malconduct in civil office or abuse of any public trust in the execution thereof.

You will notice, Senators, that there are two objections included in that plea. One of them is that at the time of the trial he was not a Senator, and he was not. The other one is that at the time he committed the acts referred to he was a Senator, but that he was not a civil officer of the United States.

The first objection was given no weight then, and has never been given any weight in any impeachment trial. It is universally conceded, I think, that an officer subject to impeachment can not avoid an impeachment trial by resigning from office. I do not believe anybody disputes that. It was not disputed in the Blount case, as I understand it. It was admitted by his attorneys, as the record shows, I believe, that they did not rely upon that proposition, and it was certainly admitted by the resolution, which they submitted after this plea had been debated. The only contention was that as a Senator he was not officer of the United States, but a State officer.

At the close of the debate the managers on the part of the House submitted this motion:

That William Blount was a civil officer of the United States, within the meaning of the Constitution of the United States, and, therefore, liable to be impeached by the House of Representatives.

That as the articles of impeachment charge him with high crimes and misdemeanors, supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled.

That motion, submitted by the managers on the part of the House, contained only one provision, in effect, which was that he was a Senator, and therefore a civil officer of the United States and subject to impeachment. The Senate voted that resolution down. They decided by their votes to the contrary. Then the defense submitted a resolution, which was agreed to. But before I read that let me pause to say this, that when the Senate passed on the Blount case, the Members of the Senate took a special oath. Every Senator who passed on it raised his hand and swore that he would pass on it as a member of a court. The Senators sitting in that case had a greater obligation even than the one we have. Their decision was the most solemn verdict that could possibly be rendered by the Senate, because it was rendered under a special oath for that particular proceeding.

This resolution was offered by Mr. Blount's attorneys:

The court—

Meaning the Senate—

The court is of the opinion that the matter alleged in the plea of the defendant is sufficient in law to show that this court ought not to hold jurisdiction of the said impeachment and that the said impeachment is dismissed.

That resolution was agreed to by the Senate. As far as I know, that is the only time the Senate ever passed on this question, and as I read the English language, the question they passed on then was, as a lawyer would say, on all fours with the question now before the Senate.

Does that raise a doubt in any man's mind? With the record of the Supreme Court before us, and keeping in mind the decision of the Senate sitting as a court under a special oath, holding that a Senator is not a Federal officer, can any Senator say now that he has a doubt in his mind, especially when we are to take a broad, comprehensive, nontechnical view of the entire field? If there is a doubt left, then it is the duty of the Senate to resolve it in favor of Mr. NYE.

Mr. President, there is another question that has been debated I think by every Senator who has made an argument opposing the admission of Mr. NYE to the Senate, and that comes from the peculiar reading of the seventeenth amendment. The part of it applying here reads as follows:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancy.

Observe the word "shall."

Provided, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

It is argued by the Senator from West Virginia, the Senator from Montana, and the Senator from Georgia, all able lawyers, that the temporary appointment referred to there does not mean the same as a vacancy, and that authority given a governor to fill a vacancy, under the law or the Constitution, is not sufficiently comprehensive to give him authority to make a temporary appointment until the electors decide who shall be the Senator. I think that is entirely too technical, but it is argued by these able lawyers, as I understand it, that that provision standing alone is enough to keep Mr. NYE from being admitted here. While I do not believe that, while I think it is almost a hair-splitting technicality, I want to carry that home to the Senate. I want to call attention to what it would mean if we should exclude Mr. NYE on that technicality.

Let us take the case of the Senator from Massachusetts [Mr. BUTLER]; and I am sorry he is not present now. He holds a place here by appointment from the Governor of Massachusetts upon a provision of the statute of Massachusetts, which reads:

Upon failure to choose a Senator in Congress or upon a vacancy in said office, the vacancy shall be filled for the unexpired term at the following biennial State election; providing said vacancy occurs not less than 60 days prior to the date of the primaries for nominating candidates to be voted for at said election, otherwise at the biennial State election next following. Pending such election the governor shall make a temporary appointment to fill the vacancy, and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy.

There was no calling of a special election there by the governor as provided for in the seventeenth amendment, and if this objection to Mr. NYE is valid, then the Senator from Massachusetts [Mr. BUTLER] has been holding his office ever since he has been here without authority of law and in violation of the Constitution of the United States. You can not escape that conclusion. If we are to keep North Dakota out, then if we are consistent—and I think we all want to be—we must put Massachusetts out with her, put her out in the cold just the same, and provide for the return to the Treasury of the United States of all the salary the Senator from Massachusetts has drawn as Senator up to this time.

In fact, North Dakota has done more than Massachusetts did. It is conceded that the Governor of North Dakota has called a special election.

Mr. REED of Missouri. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Missouri?

Mr. NORRIS. I yield.

Mr. REED of Missouri. Unfortunately I was called from the Chamber when the Senator started to make the particular statement he has just concluded. What is it the Senator claims with reference to the election of Senator BUTLER and Mr. NYE? I understood the Senator to say that those two gentlemen had been chosen in the same way and were sitting here with the same sort of credentials.

Mr. HEFLIN. There are three of them, if the Senator will pardon me—the Senator from Massachusetts [Mr. BUTLER], the Senator from Missouri [Mr. WILLIAMS], and the Senator from Indiana [Mr. ROBINSON].

Mr. NORRIS. Yes; there are three. So that the Senator from Missouri and other Senators may understand me, I am not claiming that the objection to which I just referred is the only one made against Mr. NYE, but this objection has been made by those who have argued against his admission, particularly the Senator from West Virginia [Mr. GOFF], the Senator from Georgia [Mr. GEORGE], and the Senator from Montana [Mr. WALSH]. They have all argued that because of the particular weakness I have pointed out, Mr. NYE can not be admitted; that if there were no other objections made——

Mr. REED of Missouri. What is the objection the Senator is discussing? I was out of the Chamber, and I beg pardon for interrupting and will not persist, but I wanted to understand the Senator.

Mr. SMITH. I suggest that the Senator from Nebraska repeat his parallel between the Massachusetts and the North Dakota cases.

Mr. NORRIS. The authority for the appointment of Mr. NYE comes either from the constitutional provision or the legislative provision, or both, and in each case there is provision for the filling of vacancies. The seventeenth amendment provides that when there is a vacancy the governor shall issue a writ for a special election, and his authority to appoint is confined only to the period between the date of the appointment and the filling of the place by the special election. It is claimed that even though the Governor of North Dakota did call a special election, the law by virtue of which he made the appointment did not contemplate a special election, and therefore it is just the same as though no special election had been called, and that the Federal Constitution does not give the authority to appoint to fill a vacancy, but provides only for a temporary appointment to be held until the legislature shall provide for the filling of the vacancy.

The point I am making is this, that in Massachusetts the governor did not call a special election. The governor did there just exactly what Senators opposed to the admission of Mr. NYE have condemned as fatal to the credentials of Mr. NYE. So I say that if that is sufficient to keep Mr. NYE out it is sufficient to keep out the Senator from Massachusetts; and it is sufficient to keep out the colleague of the Senator from Missouri, since a special election was not called in that State; and I am informed by the Senator from Alabama that the same applies to the Senator appointed by the Governor of Indiana. The Senator informs me that there was no special election in that case, although I have not looked into the case.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. NEELY. May I invite the Senator's attention to a fact, which I emphasized in my address to the Senate on Friday, that the shortest term that has been given to anyone appointed to fill a temporary vacancy since the adoption of the

seventeenth amendment is the term that has been given to Mr. NYE. The term given to the Senator from Massachusetts [Mr. BUTLER] lacks only 11 days of being a two-year term. The term given to the distinguished Senator from Indiana [Mr. ROBINSON] is until the election in November, 1926, a term of approximately a full year. The term given to the Senator from Missouri [Mr. WILLIAMS] is longer than that given to Mr. NYE. Mr. NYE's term is for but 7 months and 16 days, the shortest term that has been given to anyone appointed to the Senate since the seventeenth amendment was adopted.

Mr. NORRIS. Mr. President, as I said before, I think it is no answer to this argument to say that there are other objections to the admission of Mr. NYE besides this one. It is contended by those who urged this objection that it is sufficient in and of itself to keep him out; and it is immaterial if there are other reasons, anyone is sufficient. If that be true, taking their argument at a hundred per cent, then is the Senate of the United States going to say that Mr. NYE shall be kept out—and admit these other Senators—when it is argued that that is a sufficient reason of itself?

I would like to inquire of the three Senators to whom reference has been made—from Massachusetts, from Missouri, and from Indiana—whether they are going to vote on this question. They hold seats here, I believe properly; I am not making any criticism of any of them, but I am only bringing this argument where it logically must go and showing the Senate to what it will bind itself if it keeps Mr. NYE out. Do those Senators think they are qualified to cast a vote when their own title is involved in the very proposition they are to vote upon?

Mr. WILLIAMS. Mr. President, I feel that I am entitled to vote on this question, because I am here under an oath to support the Constitution of the United States.

Mr. NORRIS. Everybody has taken that oath. If we keep Mr. NYE out on this technicality, we are keeping him out under the Constitution of the United States. It would be keeping him out on the argument that the Constitution of the United States has been violated. If we are violating the Constitution in keeping him out, then we are violating the Constitution in keeping the other Senators in. Without any personal feeling, because everybody knows that I believe in the other view, I want to give notice now that I shall challenge the vote of those three Senators when we come to vote on this proposition, and let the Senate decide whether we will make fish of one and fowl of the other.

Mr. WALSH. Mr. President, my attention was diverted. I did not quite follow the argument of the Senator to the effect that the other Senators whom he named stand on exactly the same basis as Mr. NYE.

Mr. NORRIS. In so far as this one objection is concerned.

Mr. WALSH. What is the particular objection?

Mr. NORRIS. I have gone over it twice already. I do not think the Senator will ask me to go over it again. I understand the Senator himself has expressed the opinion that on the argument in regard to a vacancy it applies to the Senator from Massachusetts [Mr. BUTLER] with equal force as to Mr. NYE. Am I right in that assumption?

Mr. WALSH. I did not urge that point against Mr. NYE, and it did not occur to me that it had any application to the case of Mr. NYE.

Mr. NORRIS. I said that the Senator did. The Senator says that he did not. I apologize to him for the statement. I thought the Senator did make that argument. Although I did not hear it, I was told that he had. But the Senator does remember, perhaps, the argument of the Senator from West Virginia on that score, and he does remember the argument of the Senator from Georgia [Mr. GEORGE]. I heard both of those arguments.

Mr. WALSH. My recollection about the matter is that I precipitated that question myself. I interrupted the Senator from Georgia in the course of his remarks, the matter being generally adverted to, and expressed my views concerning it, but I did not concede that it had any application.

Mr. NORRIS. The Senator then does not believe that that particular objection made by the Senator from West Virginia and the Senator from Georgia against the admission of Mr. NYE has any weight?

Mr. WALSH. I listened attentively to the argument of the Senator from West Virginia, but I understood he was supporting the case of Mr. NYE.

Mr. NORRIS. I am speaking of the junior Senator from West Virginia [Mr. GOFF].

Mr. WALSH. I thought I followed the argument of the junior Senator from West Virginia, but I do not understand that he made that argument.

Mr. NORRIS. I think he did.

Mr. WALSH. I think the matter was incidentally referred to first in the address of the Senator from Georgia only in the most casual way, when I took the liberty to suggest that it was a real serious inquiry.

Mr. NORRIS. I think the Senator from Georgia made a very serious argument on it. I listened to the argument of the Senator from Georgia.

Mr. WALSH. The Senator from Nebraska is in error there. I am very sure the Senator from Georgia expressed no opinion upon the matter one way or the other.

Mr. HEFLIN. If the Senator from Nebraska will permit me——

Mr. NORRIS. Certainly.

Mr. HEFLIN. I think what the Senator from Nebraska had in mind and what I had in mind and what some others had in mind was that the Senator from Montana in his speech the other day, when asked by some one—I think the senior Senator from West Virginia [Mr. NEELY]—if he thought that the Senator from Massachusetts [Mr. BUTLER] had a right to sit in the Senate if the seventeenth amendment was properly construed, in the light of the fact that his State had not called any special election, said that there was grave doubt about it, or something to that effect.

Mr. WALSH. I think the Senator from Alabama is essentially correct.

Mr. NORRIS. That is substantially what I said.

Mr. WALSH. The subject engaged my attention at the time the Senator from Massachusetts [Mr. BUTLER] presented his credentials here, and I was then of the opinion concerning the proper construction of the statute adverted to upon the floor that the Senator from Alabama has suggested. I found, however, as I stated upon the floor, that nearly every State in the Union—in fact, every State that has legislated upon the subject—has taken a different view of the matter and had enacted statutes, my own State among them, postponing the election until the next general election. I felt that the preponderance of that construction of the amendment by every State which had expressed itself upon the subject was so powerful that I would not find very much support for the other view, but that was my view of the construction of the amendment.

Mr. NORRIS. The Senator would have found more support if he had advocated it against Mr. NYE than he would if he had advocated it against the Senator from Massachusetts [Mr. BUTLER]. I do not think there is any doubt about that.

I am going to read from the RECORD of January 9, at page 1741:

Mr. NEELY—

He was interrogating the Senator from Montana—

I wish to inquire of the eminent Senator from Montana if he believes that any appointment for two years to fill a vacancy in the United States Senate is really in accord with the spirit of the seventeenth amendment to the Constitution?

Mr. WALSH. I am very clearly of the opinion that it is not.

He had reference in that case to the Senator from Massachusetts [Mr. BUTLER].

Mr. WALSH. That is perfectly accurate and expressed entirely my view of the matter. I think it is a clear violation of the duty of the governor of any State to postpone the election for a period of two years.

Mr. NORRIS. If that be true, then the Senator from Massachusetts ought not to be allowed to retain his seat in this body.

Mr. WALSH. I am likewise of the opinion that the question is involved in very grave doubt as to whether the State legislature has the power to enact any such legislation as that. If it should ever transpire that the governor of a State should disregard such a statute as that and decline to be bound by it, but would call a special election within 90 days after the vacancy occurred and the election were held and the man elected came here and presented his credentials, I am of the opinion that the Senate would be obliged to follow the Constitution and decline to seat him.

Mr. PEPPER. Mr. President, will the Senator from Nebraska permit me to address a question to the Senator from Montana?

Mr. NORRIS. No; I do not want to do that. The Senator may do that in his own time. If the Senator wants to ask me a question, I will yield.

Mr. PEPPER. I will propound it to the Senator from Nebraska then. I should like to ask the Senator from Nebraska,

upon the point which he is now discussing, what effect he gives to the proviso in the seventeenth amendment which empowers the executive to make temporary appointments until the people fill the vacancies by election as the legislature may direct. I want to inquire whether that is not a clear intimation that the legislature of the State under the seventeenth amendment is free to determine whether or not the vacancy shall be filled at an election within the period for which the governor might issue a special writ or for a longer period as the legislature itself may determine; that there is no limitation, in other words, as to the power of the legislature to extend the time during which the governor's appointee may sit.

Mr. NORRIS. The Senator must not get the idea that I am arguing that this is a valid objection to the seating of anybody. I take the contrary view. Let us have no misunderstanding about that. I am not complaining that the Senator from Massachusetts [Mr. BUTLER] was wrongfully admitted or that the Senator from Missouri [Mr. WILLIAMS] or the Senator from Indiana [Mr. ROBINSON] was wrongfully admitted. I am only claiming that if Senators are going to exclude NYE for that reason, then it is their duty to put these other Senators out and declare their offices vacant.

The recent argument of the Senator from Montana gave me much encouragement and some light when he said that he had had some doubt about that question when the Senator from Massachusetts came and presented his credentials, but that he did not think he could get any support, and the point was so technical that he did not try to make any objection about it. I have never made any objection either, but now comes NYE from North Dakota and that objection is made, and Senators are seriously arguing that the objection is sufficient to keep him out of the Senate.

Mr. WALSH. Mr. President, will the Senator suffer another interruption?

Mr. NORRIS. Certainly.

Mr. WALSH. I should like to inquire of the Senator who did make that point against Mr. NYE.

Mr. NORRIS. The Senator from Georgia [Mr. GEORGE].

Mr. WALSH. I dispute that.

Mr. NORRIS. We will let the RECORD speak for itself.

Mr. WALSH. The Senator from Georgia is not in the Chamber at this moment.

Mr. NORRIS. No; he is not.

Mr. WALSH. I shall be surprised to find anything to that effect in the argument of the Senator from Georgia.

Mr. NEELY. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from West Virginia?

Mr. NORRIS. I yield.

Mr. NEELY. At the middle of column 2, page 1740, will be found the exact matter to which the Senator from Nebraska is referring. It begins with the third paragraph of that column.

Mr. NORRIS. Will the Senator read it?

Mr. REED of Missouri. Who was speaking at the time to which the Senator refers?

Mr. NEELY. It was the junior Senator from Georgia [Mr. GEORGE] who was speaking as to the constitutional provision. He was addressing himself to the very objection which the Senator from Nebraska is now discussing, an objection to the constitutional provision found in the constitution of the State of North Dakota. He said:

> The constitutional provision, however, undertakes to and does empower the governor, where no other method is provided either by the constitution or laws for the filling of a vacancy, to fill vacancies in office. The Legislature of the State of North Dakota, the people of the State of North Dakota in their sovereign capacity, have utterly no power to empower their governor to fill a vacancy in the office of United States Senator by appointment, because the seventeenth amendment expressly withdraws every power theretofore granted and reinvests the people with the authority to fill every vacancy in every senatorial office by election and not by appointment.
>
> Oh, but it is said, the greater includes the less. The greater what includes the less? The greater includes the less, certainly, if the less is a component part of it. But can any man define what is a temporary appointment in duration of years, or days, or months? Neither the Legislature of North Dakota, nor the people of North Dakota, nor the people of any other State, have the right to fill the vacancy. They can only empower the governor to fill temporarily that vacancy until the people elect, as the legislature shall direct.
>
> Can anyone define a temporary appointment? Why engage in metaphysical argument that the greater includes the less? The greater does include its component parts, but a temporary appointment is not a component part of the entire residue of a deceased Senator's term.

Mr. WALSH. Mr. President, will the Senator pardon me? If the Senator had only read a little further——

Mr. NORRIS. Will the Senator from Montana read it?

Mr. WALSH. I shall be glad to do so. The point the Senator from West Virginia read has no relation whatever to the matter that is the subject of the colloquy between the Senator from Nebraska and myself.

Mr. NEELY. Will the Senator from Nebraska yield to me once more?

Mr. NORRIS. Certainly.

Mr. NEELY. If I may be permitted, the matter the Senator from Nebraska was discussing, as I understood it, when the Senator from Montana first asked his question was the distinction or difference between a temporary appointment and an appointment to fill a vacancy.

Mr. WALSH. No; that is not the question I precipitated at all.

Mr. NEELY. That was not the question to which the Senator from Montana directed his remarks, but the RECORD will show, I think, that the question just stated was the question which the Senator from Nebraska was discussing the instant before the Senator from Montana entered the Chamber.

Mr. WALSH. I am quite sure that the Senator from Nebraska does not so understand; but, Mr. President, if the Senator from Nebraska will pardon me a little further, the Senator from Georgia [Mr. GEORGE] answered a question of the Senator from West Virginia [Mr. NEELY], which was—

> Does the Senator think that the appointment of Mr. BUTLER, for instance, by the Governor of Massachusetts, for a term of two years, lacking a few days, was a temporary appointment within the purview of the language of the seventeenth amendment?

The reply of the Senator from Georgia was—

> If the Legislature of Massachusetts considered that question and determined it, I should say it had the right to do it; but the Legislature of Massachusetts had the right to do it and the power to do it, and it alone had that power, not the Governor of Massachusetts.

The Senator from Georgia having advanced that idea, later on at some length I took occasion to question the soundness of that view. In other words, the Senator from Georgia, far from making the argument I had made, made an argument quite the reverse, and I simply did not want to allow it to pass unchallenged in this body, lest, if the matter should come up at some later time and we should give consideration to that particular question, it might be considered as one that had been passed non obstante at this time. So I yet await an argument from any Senator on this floor that Mr. NYE is not entitled to a seat upon that ground.

Mr. NEELY. Mr. President——

Mr. HEFLIN. Will the Senator from Nebraska yield to me?

Mr. NORRIS. I yield first to the Senator from West Virginia.

Mr. NEELY. I wish to inquire of the Senator from Nebraska if I am not correct in stating that he was engaged in protesting against the hairsplitting technicality indulged on the floor of the Senate in differentiating in a material way between the power of the governor to appoint to fill a vacancy and the language of the seventeenth amendment which refers to the matter of a temporary appointment?

Mr. NORRIS. Yes; I think that is correct.

Mr. HEFLIN. Mr. President——

Mr. NORRIS. I yield to the Senator from Alabama.

Mr. HEFLIN. I merely wish to suggest this to the Senator from Nebraska, in view of the suggestions and quotations from the speech of the Senator from Georgia [Mr. GEORGE]. If the Legislature of Massachusetts had the right after the adoption of the seventeenth amendment to confer upon the governor the power to appoint a Senator for nearly two years, did not the Legislature of North Dakota, which assembled after the adoption of the seventeenth amendment and reenacted a statute in which was employed language to the effect that the governor shall fill all vacancies except those of members of the legislature, have the right to confer upon its governor the right to fill a vacancy by an appointment for six or seven months?

Mr. NORRIS. I think so. Of course, I think Senators misconstrue my attitude by indulging in the theory that I am making or am trying to make an argument against the validity of these other appointments. I do not believe that objection to Mr. NYE is valid. I do not believe the objection to the other Senators would be sustained by the Senate. But why are Senators arguing that point? Why are the Senators who are opposed to the admission of Mr. NYE spending the time of the

Senate and filling the RECORD up with arguments on that very proposition if they do not believe it?

Mr. WALSH. Mr. President, let me ask the Senator again who is making that argument against Mr. NYE?

Mr. NORRIS. I have heard that argument. The Senator from Montana disputes it, of course. I think what has been read here from the Senator's own lips has presented that argument. By the way, I will read further, since the Senator is anxious about this matter. The Senator from Montana further said:

> The question that has just now been discussed briefly is one on which I hope no one will thus hastily stand committed. It is a most serious question that some day or other may confront us under the seventeenth amendment to the Constitution. I think that there is the gravest kind of doubt as to whether the various statutes passed by the legislatures of the States, providing that the election shall be held at the next general election, can be regarded as valid under the amendment.

That is the law under which these Senators are holding office now. The Senator from Montana further said——

Mr. REED of Missouri rose.

Mr. NORRIS. Let me finish reading this quotation. The Senator from Montana further stated:

> The amendment, it seems to me, unquestionably reposes in the governor the power to fix the time at which the general election shall be held. If Senators will observe, it is unqualified, when vacancies happen in the representation of any State in the Senate, that the executive authority of such State shall issue writs of election to fill such vacancies, and it can determine unquestionably under settled authority when that election is to be held. The legislatures of a great many States have stepped in and endeavored to take that power away from him by providing that the election shall not take place until the next general election. Under such an act the Governor of the State of Massachusetts was by the Legislature of the State of Massachusetts divested of his power under the amendment, provided that construction is correct. I have always felt that the subsequent provision of the amendment of the Constitution "that the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct" has no reference at all to the power. The legislature, in my judgment, has no power to fix the time. The expression "as the legislature may direct," in my judgment, refers to the manner in which the election shall be conducted, whether it shall be conducted under the general laws or whether they shall make special provision for the election of a United States Senator.

Mr. WALSH. Mr. President——

Mr. NORRIS. First I will yield to the Senator from Missouri.

Mr. REED of Missouri. I will wait until the Senator from Montana concludes.

Mr. WALSH. I want to call attention to the fact that I was making that argument in favor of Mr. NYE and not against him. The Governor of North Dakota has acted in perfect conformity with the provisions of the Constitution and, without any act of the legislature at all, called a special election, as I understand, for the 30th day of next June. He has done exactly what the Constitution directs him to do, as I interpret it. I have not argued against Mr. NYE on that ground, and, as I have said, I am not aware that anyone else has. So it seems to me, from my present impression concerning the course of this debate, to bring that contention in here is putting up a straw man to knock him down.

Mr. NORRIS. No; it is a contention that the Senator has advanced so far as the Senator from Massachusetts is concerned and any other Senator who holds a seat here by the same kind of title. The Senator can not get away from the facts.

Mr. WALSH. I am not seeking to get away from them, but the point I am making——

Mr. NORRIS. I am not disputing that point; but the Senator did say here, and I understand he stands by it yet—and I am not quarreling with him about it at all—that it is an important question and he has grave doubt as to whether under the seventeenth amendment any man coming here by appointment is entitled to his seat under the same kind of a statute that exists in Massachusetts, by virtue of which the senior Senator from that State [Mr. BUTLER] comes here. That is plain, I think. I think it is a technicality that we ought not to consider. Other States have done the same thing; and I am making an argument that if that weakness in the title of other Senators exists and is used here against Mr. NYE, then we ought to apply it all around.

I think, Mr. President, the statement of the Senator from Montana bears out my general statement that, after all, we ought not to consider mere technicalities. He has called attention to a technicality on which, able lawyer that he is, he could make an argument convincing to anyone who would follow technicalities that the title of several Senators here in this body is such that we ought to declare their seats vacant. I am only arguing that in the North Dakota case we ought to overlook technicalities just the same as we have done in the Massachusetts case or the Indiana case or the Missouri case, or as we should do in a case from any other State.

Mr. GEORGE. Mr. President——

Mr. NORRIS. I promised to yield first to the Senator from Missouri.

Mr. REED of Missouri. Mr. President, I merely want to say that, regardless of whether this point has been raised against Mr. NYE by Senators on the floor, if it exists, it is a matter for consideration. I think that it is not necessary for some Senator to have urged a particular point in order that it may be in this case and in the minds of Senators who have to decide it. I think the question as to whether a legislature can meet and pass a statute which deprives the governor of the power to call an election at his own will is a very serious question indeed. But I understand that in the Nye case that point is not involved because in the Nye case the legislature did not undertake to deprive the governor of the opportunity to call an election, and he did call an election. So that what he has done in the case before us is to undertake to fill a vacancy during the interval between the meeting of Congress in December, 1925, and the time for which he had called the election. Therefore, the objection I am discussing and to which reference has been made can not be urged against Mr. NYE; but it does not follow that the matter is not in point in a sense if not strictly in a legal sense.

If we waived this important point—that is, of the legislature trying to deprive the governor of the right to call an election, as to other Senators and did not give it consideration because there was no contest and there was no claim of fraud or any wrong-doing and, therefore, we seated them without a contest on the broad ground that there was no wrong being perpetrated—it occurs to me that that is a very potential argument or reason in favor of Mr. NYE, because his case seems to bear the same relation to his right to a seat as do the cases of the other Senators. I am asking the question why men who could without any hesitancy vote to seat other Senators and could waive this technical objection which existed, whether it was raised or not in their cases, should now be so exceedingly technical with reference to a man who happens to come from North Dakota.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Has the Senator from Nebraska yielded the floor?

Mr. NORRIS. Yes.

Mr. WILLIAMS. Mr. President, I should like to ask my colleague from Missouri a question.

Mr. REED of Missouri. I yield.

Mr. WILLIAMS. The appointment of a United States Senator from the State of Missouri is made under section 4787, I think, of the revised statutes of our State, which was passed in 1915. Under that section the appointment of Hon. Xenophon P. Wilfley was passed upon by the Senate, and his credentials were received on the theory, I assume, that the act of the State of Missouri of 1915 was passed in recognition of and pursuant to the seventeenth amendment, specifically referring to the power of the governor to appoint a United States Senator to succeed in the event of a vacancy.

Mr. REED of Missouri. I do not think my colleague understood my remark. I am not raising any question at all as to his right to sit in this body. I think he has a perfect right to be here. I am not raising any question as to the right of the Senator from Massachusetts [Mr. BUTLER] to sit here. I will say to my colleague that I am not familiar with the statutes of our own State with regard to the appointment of a Senator. I have not examined them. I assume they are in proper shape; but if that point could be waived in the Massachusetts case, not seriously considered by the Senate, not set up as a technical objection, it must have been because everybody understood that the Senator from Massachusetts came here in good faith, appointed by the governor in good faith, nobody was claiming any fraud or any irregularity, and hence we did not concern ourselves with trying to find out whether we could get some technical ground on which to reject him, and I am asking why that argument does not have a pretty forcible application in the North Dakota case.

Mr. WILLIAMS. Mr. President, will not my colleague agree with me that the question of good faith arises only when we exercise our function to pass upon the qualifications of Members of this body?

Mr. REED of Missouri. Certainly; but we do that when we give the Member a seat. Whether we do it with argument or without argument, with debate or with no debate, nevertheless when the applicant for membership is seated and thus made a Member we are passing upon the question.

Mr. WILLIAMS. I quite agree with that; but the question of the character of the man who might be appointed by the governor, if he were a bad man or if he did not believe in the institutions of his country, or questions of that sort, might arise in consideration of the qualifications of the man himself who was sent here by the governor; but the question of good faith or no good faith, or fraud or no fraud, does not necessarily arise where the statute is plain and where the statute indicates that it has been passed pursuant to the seventeenth amendment, and refers to a United States Senator.

Mr. REED of Missouri. Mr. President, that is very true. There is no dispute between my colleague and myself on that point; and I want to repeat that I am not challenging his right to a seat here. If anybody challenges it, I will fight for him just as hard as he would fight for himself. I think he is here regularly. His name simply happened to be mentioned in this debate, together with the names of other Senators.

Mr. WILLIAMS. Mr. President, a further question, and that is the question as to the length of time for which a Senator comes here. The question of temporary appointment is one to be determined by the legislature of the State; is it not? The Senator from Massachusetts [Mr. BUTLER] may come here for a term of approximately two years, the legislature of that State having determined under the seventeenth amendment that that may be a temporary appointment, whereas the statutes of Wisconsin plainly indicate that in that State four months is regarded as the term for a temporary appointment.

Mr. HEFLIN. Mr. President, will the Senator permit me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. HEFLIN. Does the Senator believe, then, that a legislature could empower the governor to make a temporary appointment for four years or five years, in the face of the seventeenth amendment.

Mr. WILLIAMS. That would be an expression of personal opinion only; and that is what I understood the Senator from Montana [Mr. WALSH] to indicate the other day when he was questioned as to whether the time for which the Senator from Massachusetts was appointed was temporary or not. He expressed his opinion that that term was too long to be regarded as temporary, but it is my understanding that he did not intend by that statement to assert that it was not within the competency of the Legislature of Massachusetts to determine what is a temporary term. I should say that in my own personal judgment I agree with the Senator from Montana; but I think I have nothing to say about that, inasmuch as the seventeenth amendment refers the whole question to the legislature of the State.

Mr. HEFLIN. But the Senator has a personal opinion. Does the Senator believe that the legislature of any State has a right to empower the governor to make an appointment for as long a time as four years or five years and call it a temporary appointment?

Mr. WILLIAMS. I think it has.

Mr. HEFLIN. I differ with the Senator. I do not think it has any such authority.

Mr. REED of Missouri. Mr. President, I do not think the question has been correctly stated. It is not a question of whether the legislature can empower the governor to appoint for a particular term; it is a question as to whether the legislature can deprive the governor of the right to call an election. That is the real question.

Mr. WILLIAMS. That is a rather anomalous question under these two sections of the seventeenth amendment, I should say; and I think the Senator from Georgia [Mr. GEORGE] will agree with me on that. It qualifies the right of the people to elect a United States Senator for the long term, and their successive right to elect for a temporary term, by giving the governor the power to make a temporary appointment; but the governor must do that as directed by the legislature. Those are the words of the seventeenth amendment.

Mr. NORRIS. Mr. President, the Senator from Missouri [Mr. WILLIAMS] was appointed a Member of this body by virtue of a statute of Missouri. I believe this is the statute:

> Whenever a vacancy in the office of Senator of the United States from this State exists the governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected and qualified according to law.

Let me preface again what I say. I am making no question of the Senator's right to sit here. I never have made any; but if we were going to adopt a technical rule, if we were going to be very technical, we would not admit the Senator into this body under that law, because the seventeenth amendment says, and it uses the word "shall"—

> When vacancies happen * * * the executive authority of such State shall issue writs of election.

And the appointment that he has power to make, if given authority by the legislature, is to hold the office until, under that election which he calls by virtue of the seventeenth amendment, a Senator is duly elected to fill the vacancy. The Governor of Missouri did not do that, as I understand. The Governor of Missouri simply appointed the Senator a Member of this body, to hold office until his successor was duly elected according to law and qualified according to law. He called no special election. If we are going to construe this thing technically, I repeat that we must exclude the Senator from Missouri, and we must exclude all other Senators who hold their title here by the same kind of law.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Missouri?

Mr. NORRIS. Yes.

Mr. WILLIAMS. I understood the Senator from Nebraska a moment ago to say that he would challenge the vote of certain Senators.

Mr. NORRIS. Yes, Mr. President.

Mr. WILLIAMS. I now understand him to say that he has no doubt of my right to sit in this body. Of course, the Senate has determined that question, as it determined it in a previous case arising from Missouri. The Senate knew that the act of 1915 of the State of Missouri had been passed pursuant to and in recognition of the seventeenth amendment and in recognition of the fact that constitutions of States have nothing at all to do with this question but that the statutes of States do have something to do with it; and it has been the evident purpose and intent of the Senate to try to determine the real meaning of these statutes as passed in the various States.

Having done that twice in the case of the State of Missouri, and since it does not appear upon the record whether or not the governor has issued or shall issue writs of election, I respectfully submit that the Senator from Nebraska may not be speaking with full knowledge of the contents of our State statute on the subject.

Mr. NORRIS. I ask the Senator now, Did the Governor of Missouri issue a writ for a special election in his case?

Mr. WILLIAMS. I do not know whether he did or not.

Mr. NORRIS. I take it, because it is not cited in this statute, that he did not do it; that he did not have any authority to do it under the Missouri statute, if it is all here.

Mr. WILLIAMS. Unfortunately, Mr. President, that is not the only section of the Missouri statute on the subject.

Mr. NORRIS. That may be. I did not put it in the RECORD. It was put in there by the Senator from West Virginia [Mr. GOFF] in making an argument against the admission of Mr. NYE.

Mr. President, I take it that this is all of the statute that applies. If there is any more I should like to see it; or if the governor did issue a writ for a special election I should like to know that. I think the Senator from Missouri certainly would know whether he did or not. Under this statute I take it that he has not any authority to do it, because it says:

> Whenever a vacancy in the office of Senator of the United States from this State exists, the governor, unless otherwise provided by law, shall appoint a person to fill such vacancy who shall continue in office until a successor shall have been duly elected and qualified according to law.

If the governor did issue a special writ, I should like to know it. It would remove to a great extent the objection of a very technical nature.

Mr. WILLIAMS. Mr. President, the Senator has read the words "according to law."

Mr. NORRIS. Yes; and that means that when the next election comes around the vacancy will be filled at a general election. It means that no writ of election has been issued by the Governor of Missouri. If we are going to be technical, the Governor of Missouri has failed to carry out the provisions of the seventeenth amendment wherein it says that he "shall" issue such writs of special election.

Mr. President, let me say now that while I did say I would challenge the right of these Senators to vote on the Nye case, yet because most Senators whom I supposed had made an argument for the exclusion of Mr. NYE on this ground have said that they did not make it; and I take their word for it, and that they are not now advocating the exclusion of Mr. NYE on this ground. That being true, Mr. President, if no one is advocating that, of course, I would not challenge the right of any of these Senators to vote, and would content myself with calling attention to the fact that if technicalities were enforced, if we are going to split hairs on technicalities, there would be several other Senators who would not be admitted here. I have been trying to make an argument that we should not be so technical. I devoted most of my time to trying to show that in this particular case we were given the broadest kind of authority by the Constitution of the United States, so that we could throw aside little technicalities, so that we could consider the whole matter with the very purpose in view of bringing into this body a full representation from every State, which the Constitution of the United States says we ought to do, and that we should not deprive any State of that representation without its consent.

Mr. BRUCE. Mr. President, I can not let this controversy in relation to the supposed right of GERALD P. NYE to a seat in this body pass without briefly expressing my views with respect thereto.

I take it for granted that no Member of the Senate has a right to unite in a vote seating anyone in this body in a spirit of mere complaisance or sympathy or generosity. The Federal Constitution says, it is quite true, that the Senate shall be the judge of the qualifications and returns of its own Members, and that provision, of course, gives an extraordinary degree of latitude to this body in determining whether any individual is or is not entitled to a seat in the Senate. Nevertheless, I assume that it is too clear for argument that what the Federal Constitution intends is that this body should be the judge of the qualifications and returns relating to anyone who claims a seat in this body; and that it shall be the duty of every Member of the Senate as far as possible to bring a judicial, a disinterested, a dispassionate spirit to bear upon the question as to whether such a person is or is not entitled to a seat here.

That obligation, I submit, no self-respecting Member of this body can escape. No Senator has the right to haste in conferring a seat in the Senate upon anyone as a mere gift or largess or favor. When the Members of this body come to vote with reference to the issues involved in this controversy it will be incumbent on them to vote without reference to any secondary considerations whatsoever. They should not ask whether the Senator from Massachusetts [Mr. BUTLER] was or was not illegally appointed. They should not ask whether the Senator from Missouri [Mr. WILLIAMS] was or was not illegally appointed. Those are collateral questions, involving purely collateral issues. They should not ask whether Mr. NYE is a Democrat or whether he is a Republican or whether he is a Progressive. Their duty is to ask merely whether he has been legally appointed to a seat in this body.

When Governor Sorlie undertook to appoint GERALD P. NYE to a seat in the Senate he said that he did it in pursuance of the constitution and the laws of the State of North Dakota and of the Federal Constitution. Of course, there is no possible source from which authority on his part to make such an appointment can be deduced except one of those three sources. I really can not see how any lawyer can seriously contend that the constitution of North Dakota authorized Governor Sorlie to appoint GERALD P. NYE. What is the language of that constitution? Section 78 reads:

> When any office shall from any cause become vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

Can it be successfully contended that those provisions have any application to this case? The power of the governor under them to appoint obtains only when there is no mode provided under the constitution or laws of North Dakota for the filling of the vacancy. Those provisions were adopted by the people of North Dakota 24 years before the seventeenth amendment to the Federal Constitution went into effect, and they were adopted when the Federal Constitution provided that Senators should be elected by the legislatures of the different States, and that during the recess of any legislature the governor should have the power to make an appointment until the legislature should meet.

When the people of North Dakota adopted them they were, I hardly need say, thoroughly familiar with the existing provisions of the Federal Constitution in relation to the election of United States Senators.

Mr. FRAZIER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from North Dakota?

Mr. BRUCE. Not just now. I will yield later.

It is inconceivable, therefore, that in adopting those constitutional provisions the people of the State of North Dakota could have had any reference whatever to the office of Federal Senator.

I do not deny that a constitutional provision may not apply to a thing that is nonexistent at the time that it is adopted, and may yet subsequently apply to it when the thing comes into existence. For instance, when the Federal Constitution was adopted there was no such thing as a steamship or a railroad train, nor was there such a thing as a telegraph or a telephone wire or a radio apparatus. Yet to-day the clause in the Federal Constitution which gives to Congress power to regulate interstate commerce applies to the commerce promoted by steamships, railroad trains, telegraph and telephone wires, and radio apparatus.

So, Mr. President, if the seventeenth amendment to the Federal Constitution were not just what it is, it might be argued, and with force, that whether the language of the constitution of North Dakota was or was not intended to apply to Federal Senators, it now, because of its broad terms, applies to them. But that argument can not be made, because of the peculiar wording of the seventeenth amendment to the Federal Constitution. What is that wording?

> When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

Need I declare that the provisions of the constitution of North Dakota, even if they could in any view of the case be held applicable to a Federal Senator, are hopelessly repugnant to the seventeenth amendment to the Federal Constitution and must therefore yield to it. Under the constitution of North Dakota the governor has no power to appoint except when there is no mode of appointment provided for by the constitution and the laws of the State of North Dakota. Under the language of the seventeenth amendment to the Federal Constitution the governor can not appoint until the legislature authorizes him to appoint. The irreconcilability is manifest.

Mr. HEFLIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Alabama?

Mr. BRUCE. I yield, though I suppose I should not yield to the Senator from Alabama without first yielding to the Senator from North Dakota. I do not mean any discourtesy to the Senator from North Dakota.

Mr. HEFLIN. The Legislature of North Dakota did assemble after the seventeenth amendment to the Federal Constitution had been adopted and reenacted a statute which gave the governor authority to fill all vacancies arising in that State, using the language "all vacancies."

Mr. BRUCE. I am coming to that, and coming to it shortly. I am arguing now merely that the Governor of North Dakota was not in a position to derive his supposed authority to make this appointment from the constitution of North Dakota. Now, I say that he was in no better position to derive authority to make that appointment from the laws of the State of North Dakota.

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. BRUCE. I yield.

Mr. FRAZIER. The Senator from Maryland referred to article 78 of the constitution of North Dakota providing that the governor shall have authority to fill all vacancies, and the Senator stated that that provision of our constitution was adopted in 1889, long before the seventeenth amendment to the Federal Constitution was adopted. That is very true. But away back in 1860 the matter of changing the provision with reference to the election of United States Senators was brought up in the Senate. It was brought up again in 1886 and again in 1890. A day or two ago in this discussion the Senator from West Virginia [Mr. NEELY] cited

two or three Supreme Court decisions in cases where certain laws had been passed in anticipation of the adoption of amendments. I do not know whether or not the constitutional convention of North Dakota which framed our constitution had in mind at that time the fact that a change in the mode of choosing United States Senators was contemplated, but we have no way of knowing that they did not take that very thing into consideration, because on the floor of the Senate in 1888 a provision of that kind was introduced to change the method of choosing United States Senators by providing for direct election by the people.

Mr. BRUCE. Of course, the Senator has failed to grasp my train of reasoning. It may be my fault and it may be his. So far as my argument is concerned, it is entirely immaterial whether the people of North Dakota, when they adopted that constitutional provision, did or did not have the office of Federal Senator in mind.

My point is that even if it would otherwise be applicable it can not apply to this case because it is hopelessly repugnant to the terms of the seventeenth amendment to the Federal Constitution. The provision in the North Dakota constitution gives the governor the power to appoint, provided there is no other mode of appointment prescribed by the constitution or laws of the State of North Dakota. The seventeenth amendment to the Federal Constitution provides that the legislature may authorize the governor to make a temporary appointment to the United States Senate. In other words, the provision in the constitution of North Dakota, whatever may be its effect, applies only where there is no other mode of appointment prescribed by either the constitution or law of the State of North Dakota. The seventeenth amendment to the Federal Constitution points out specifically the manner, and therefore the only manner, in which a temporary appointment can be made; that is to say, by the governor acting in pursuance of legislative authority bestowed upon him under the provisions of the seventeenth amendment by the legislature of his State.

With due deference to my friends who have argued this question in behalf of Mr. NYE, I say that it is impossible for them successfully to answer my argument so far as it has proceeded.

Now I come to the question whether there was anything in the laws of North Dakota from which the governor of that State could have derived the authority to appoint. There is not a thing, in my judgment, and not a thing even if we believe those who are supporting the appointment in this body except the act of the Legislature of the State of North Dakota of the year 1917. What was that act? It was not an act of first impression. It was not res nova. It was an act which undertook to repeal and reenact with amendments a preexisting statutory provision of the laws of North Dakota, namely, section 696 of the North Dakota Code of 1913. It did not undertake to repeal section 696 of the North Dakota Code in toto. It brought down all its wording from the words of section 696 of the North Dakota Code of 1913, except certain added words which provided that vacancies in the office of State's attorney arising under particular conditions should be filled by the boards of county commissioners.

In every other respect, except as regards a slight transposition of words in one place, the act of 1917 was identically the same enactment as section 696 of the North Dakota code of 1913.

Nothing can be better settled as matter of law, settled by the supreme court of my State, settled, as the junior Senator from West Virginia [Mr. GOFF] showed, by the decisions of North Dakota, settled by numerous other decisions in other States than that when one statutory enactment repeals and reenacts another with amendments, the continuity of the first statute remains uninterrupted. The last time that that was decided in my State was in the case of Swan *v.* Kemp (97 Maryland 691). There the court was considering the effect of legislation of 1888 upon certain legislation of the year 1884 and it said:

> The subsequent legislation of 1888 and 1900 repealing and reenacting the act of 1884, chapter 485, did not repeal it in the sense of obliterating it and doing away with its object and effect; but was enacted in furtherance of the object of the act which it thus repealed and reenacted. The latter was substantially reenacted, and the main and fundamental provisions thereof were preserved and embodied in the new law. The change made was only in regulations affecting the practical operation of the law. This brings the case at bar within the principle laid down in the cases of—

Then the court cited a number of decisions in previous cases that had come before the Court of Appeals of Maryland, and proceeded as follows—

> which have declared the effect of laws repealing and reenacting existing laws under article 3, section 29 of our constitution and the legislative practice thereunder; and have held "that where a repealing law contains a substantial reenactment of the previous law the operation of the latter continues uninterrupted."

So the act of 1917, which has been quoted in full in this debate, so far as the power was bestowed by it upon the governor to appoint to "State and district offices," had exactly the same legal effect, no more, no less, than section 696 of the North Dakota Code of 1913, which also contained those words. What the words "State and district offices" meant in section 696 of the North Dakota Code they meant in the act of 1917. Whatever scope they had in section 696 they had in the act of 1917. The latter statute, being a mere repealing and reenacting statute, did not either contract or enlarge the legal effect of section 696 of the North Dakota Code as respects those words, which at the time that they were first employed could not possibly have been intended to include the office of Federal Senator, which the governor of a State was then authorized by the Federal Constitution to fill during the recess of the legislature. So I say, with such a degree of confidence as I have rarely ever felt in dealing with any legal question that the conclusion, which I have reached, that Governor Sorlie had no right under the constitution of North Dakota, or under the act of 1917 of North Dakota, to make this appointment, is unassailable.

Of course it is immaterial to my line of argument to ask whether, under different circumstances from those which surround the present controversy, the words "State offices" in the act of 1917 would have been broad enough to have included the office of Senator; but I will stop just a moment to inquire whether in passing on that question there is not at least one legal consideration of the utmost importance to be taken into account. There is no canon of construction in regard to the interpretation of statutes that is better established than the canon that all statutes, except where technical words are used, must be construed as their natural, obvious, popular import suggests that they should be construed. Suppose I were to say to one of my constituents in Maryland, or the Senator from Georgia [Mr. GEORGE] were to say to one of his constituents in Georgia, that the Governor of Maryland or the Governor of Georgia, as the case might be, had the power to appoint to State offices.

Could such a man suppose for a single moment that I or the Senator from Georgia intended to include in the term "State offices" such an office as the office of a Federal Senator? Would that be the obvious meaning of the words? Would that be the natural import of the words? Would that be the popular sense of the words? It would not be. Then those words can not be deemed broad enough to include the office of Federal Senator.

Let me turn to one single paragraph from Sedgwick on statutory and constitutional construction corroborative of this statement of mine.

On page 219 the learned author under the head of "The language of a statute," says:

> The rules which we have been thus far considering relate to ambiguity and contradiction in regard to the general scope and purport of a statute; but serious questions may arise in regard to single words, and with reference to the precise meaning of the language used. The rule in regard to this is expressed in the maxim, a berbis legis non est recedendum—the meaning of which is, that statutes are to be read according to the natural and obvious import of their language.

If I am correct in my principle of construction, it is unnecessary for me to ask whether the office of United States Senator is a State office or a Federal office. The Supreme Court of the United States has held that the office of United States Senator is not an office under the Government of the United States. Again it has held that a United States Senator is not a civil officer of the United States; but it is even more certain that a United States Senator can not be termed a State officer in the ordinary sense of a state-wide State officer clothed with State duties and responsibilities or rather with duties and responsibilities that are to be discharged or borne within the limits of the State itself. The Supreme Court has never exactly defined the character of the office of United States Senator. It is, perhaps, a composite office, an office marked to a certain degree by a duality of nature. One thing, however, is certain.

A Senator's duties are not discharged, his responsibilities are not met within the limits of the State itself which he represents in the Senate of the United States. Whether in any proper sense he is a State officer or not the functions that he performs, the duties that he discharges, the responsibilities that he assumes, are all Federal functions, duties, and responsibilities. If I am incorrect in these ideas, my situation I must say, is not such as to convey to my bosom as a taxpayer a feeling of unmixed dissatisfaction, for if a United

States Senator is not a Federal officer but is a State officer, then the Federal Government plainly has no power as it is doing to impose any income-tax obligation upon him, because the Federal Government has no power to tax any instrumentality of any kind that is essential to the workings of a State government.

Is there any Member of this body—I hope there is not—who has not from year to year since 1913 paid an income tax on his salary as a Federal Senator into the Federal Treasury? If there is none, how does it lie in the mouth of any Senator here to say that he is not a Federal officer in any sense, but is a State officer?

Now, just one word more and I am done. That these principles of construction for which I have been contending are the correct principles of construction for this case is also evidenced by the fact that they have been actually adopted in 41 of the 48 States of the Union. No fewer than 41 of the States have enacted special acts authorizing the governors of those States to make temporary appointments to vacancies in the office of United States Senator. The only reason why five more States have not done so is because those five States have not been willing to authorize their governors to make any temporary appointments. There are therefore only two States in the Union—the Senator from Georgia [Mr. GEORGE] will correct me if I am wrong—that have not passed such acts because of oversight or mere omission—namely, Kansas and North Dakota. Of course, that practical construction is a matter of the very highest degree of consequence in disposing of this controversy. All of those States had attorneys general; all of them had governors; all of those governors doubtless secured opinions from the attorneys general of those States as to what should be done to give full effect to the seventeenth amendment to the Federal Constitution. As the result, we find as I have stated, not less than 41 States out of the 48 enacting special legislative measures authorizing the governor of the State to fill temporarily a vacancy in the office of United States Senator. No law having been passed by the legislature of North Dakota authorizing the governor of that State to appoint GERALD P. NYE, obviously the seventeenth amendment to the Federal Constitution can not be relied upon to legalize the appointment.

I can truly say that for many reasons I regret the necessity of reaching the conclusion that I do. I know that a seat in the United States Senate is not to be lightly denied to any man who has been ostensibly appointed to it.

I should despise myself if in a case of this kind I allowed any personal or any partisan or political considerations of any kind to influence my judgment. I have never heard a word about GERALD P. NYE as a man that was not calculated to recommend him to my personal good will; but if he is not legally entitled to the office of Senator, he should not be inducted into it. Do the Members of this body propose to allow themselves to be swayed by any ulterior considerations in determining a question of this kind? If so, bear in mind, Mr. President, that those considerations might have sway at a time when some man was soliciting a seat in this body whose title was not dubious but absolutely clear. The only safe rule in a case of this kind is for every man——

Mr. HEFLIN. Mr. President——

Mr. BRUCE. I am almost through.

Mr. HEFLIN. I merely wish to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Alabama?

Mr. BRUCE. Yes.

Mr. HEFLIN. The Senator knows that courts in construing a statute try to find out what was the intent of the legislature in passing it.

Mr. BRUCE. Of course they do. That is the cardinal rule of construction.

Mr. HEFLIN. If the mind of the Senator could be impressed with the idea that when the Legislature of North Dakota reenacted the statute giving the governor the power to fill all vacancies they intended to include in it the office of United States Senator would not that change his attitude?

Mr. BRUCE. I think that the legislative authority called for by the seventeenth amendment could be given in a general as well as a special form.

Mr. HEFLIN. Then, would it not help the Senator in reaching a conclusion to know that that State has passed an act allowing the voters of North Dakota to recall from this body a United States Senator?

Mr. BRUCE. Of course, that is not in the same act.

Mr. HEFLIN. No; that is in another act, but it shows that they regarded a United States Senator as a State officer.

Mr. BRUCE. Those two acts are perhaps entirely different from each other in their origin and scope; I do not know their chronology exactly, but one was probably passed during one session of the legislature and the other during another.

Mr. HEFLIN. I think so.

Mr. BRUCE. And there was probably a long interval between the enactment of the two statutes.

Mr. HEFLIN. I was just making that point to show that they regarded the office of United States Senator from that State as a State office and that they considered they had control over him and the right to remove him from this body. If he were a United States officer the State could not recall him.

Mr. BRUCE. But, on the other hand, I will call the attention of the Senator from Alabama to the fact that section 863 of the North Dakota code uses this language:

> Party candidates for the office of United States Senator shall be nominated in the manner herein provided for the nomination of candidates for State offices.

"For State offices." I am sure that enactment escaped the research of the Senator from Alabama.

Mr. HEFLIN. But that does not affect the point that I raised. In my State I was nominated at the time when the State officers were nominated; we were all nominated at the same time; and my contention is that a Senator is both a State officer and a United States officer.

Mr. BRUCE. Mr. President, I really have forgotten now exactly where the thread of my argument was clipped, but I know that I was getting into the province of morals rather than of juridical reasoning when the Senator from Alabama interrupted me.

In conclusion, let me simply repeat that I think that in a case of this kind each Senator should consult no standard of conduct but his conscience and his intellect and should cast his vote with respect to nothing except the merits of the controversy.

Mr. McKELLAR obtained the floor.

Mr. NEELY. Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The Senator from West Virginia suggests the absence of a quorum. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Fess	Lenroot	Sackett
Bingham	Frazier	McKellar	Schall
Blease	George	McMaster	Sheppard
Borah	Gillett	McNary	Shipstead
Bratton	Glass	Mayfield	Smith
Brookhart	Goff	Means	Stanfield
Broussard	Gooding	Metcalf	Stephens
Bruce	Hale	Moses	Swanson
Butler	Harreld	Neely	Trammell
Capper	Harris	Norris	Tyson
Caraway	Heflin	Oddie	Underwood
Copeland	Howell	Overman	Walsh
Couzens	Johnson	Pepper	Warren
Curtis	Jones, Wash.	Pine	Watson
Deneen	Kendrick	Pittman	Wheeler
Dill	Keyes	Ransdell	Williams
Edge	King	Robinson, Ark.	Willis
Ferris	La Follette	Robinson, Ind.	

The PRESIDING OFFICER. Seventy-one Senators have answered to their names. A quorum is present.

Mr. McKELLAR. Mr. President, for several days able and splendid arguments on both sides have been made in the matter of the admission to a seat in this body of Hon. GERALD P. NYE, of North Dakota, recently appointed Senator by the governor of that State. The arguments made against the seating of Mr. NYE by the junior Senator from West Virginia [Mr. GOFF], by the senior Senator from Montana [Mr. WALSH], by the junior Senator from Georgia [Mr. GEORGE], and other Senators taking that view have been able and splendid. On the other hand, the arguments made by the junior Senator from Mississippi [Mr. STEPHENS], the junior Senator from Alabama [Mr. HEFLIN], the senior Senator from West Virginia [Mr. NEELY], and other Senators on the opposite side have practically exhausted the question, and I feel almost like apologizing for presenting the views that I entertain; but after a careful consideration of the case it seems to me so simple that I hope the Senate will indulge me in giving to them briefly the view I entertain.

As I understand, the matter hinges upon three enactments. One of them is the seventeenth amendment to the Constitution of the United States; the second one is section 78 of the constitution of North Dakota; and the third one is the statute of North Dakota passed in reference to vacancies, adopted March 15, 1917, after the seventeenth amendment was passed.

I desire to read the part of the seventeenth amendment that applies to this case:

When vacancies happen in the representation of any State in the Senate—

And I invite the especial attention of those who think this is not a State office to this language:

When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

The purpose of this provision, so far as the making of temporary appointments is concerned, is easily seen. From the beginning of our Government the governor of each State had the right in the old days prior to 1913, when Senators were elected by the legislatures, to make a temporary appointment when the legislature was not in session until the next meeting of the legislature. The seventeenth amendment changes that situation and provides that the people shall fill these vacancies by elections called by the governor, but further provides that the legislature may authorize the governor to make temporary appointments.

What was the purpose in this last proviso? It was the purpose expressed in the fifth article of the Constitution, namely, that no State shall be deprived of its equal representation in the Senate and that nothing shall prevent a State from having its two Senators here.

Mr. President, under the old plan the governor was directly given the right to appoint by the Federal Constitution. Under the new plan the legislature was to authorize the governor to appoint. Article 78 of the constitution of North Dakota provides as follows:

When any office shall from any cause become vacant, * * * the governor shall have power to fill such vacancy by appointment.

And in 1917, not long after the adoption of the seventeenth amendment, the legislature passed a law, the exact provisions of which I will quote:

All vacancies * * * in State and district offices (shall be filled) by the governor.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. McKELLAR. I will yield to the Senator in just a minute.

Senators, what could be simpler than that Mr. NYE is entitled to his seat under these three provisions? Here is the Constitution of the United States saying that temporary vacancies may be filled by the governor, provided the legislature authorizes the governor so to do. Then the constitution of North Dakota gives the governor the right to fill all vacancies. Then the Legislature of North Dakota comes along and specifically authorizes the governor to fill all vacancies. If that is not ample authority, I can not imagine what is; and yet for several days it has been argued here that that was not what the legislature intended and that, even if it was, this is not a State office and, therefore, the appointment is invalid.

I now yield to my friend from Georgia.

Mr. GEORGE. I merely wanted to ask the Senator to quote all of the constitution of North Dakota on this subject. He omitted a phrase. I am sure he did not do so intentionally.

Mr. McKELLAR. I will read it all if I can find it here, if it will be of any benefit; but this is all that refers to this particular matter. It gives the legislature authority to confer upon the governor the power to fill vacancies.

Mr. GEORGE. No; the Senator misunderstands me.

The PRESIDING OFFICER. Does the Senator from Tennessee further yield to the Senator from Georgia?

Mr. McKELLAR. I yield.

Mr. GEORGE. I merely wish the Senator to quote all of the section of the constitution of North Dakota dealing with this matter.

Mr. McKELLAR. I do not have it before me, but I will put it in my remarks.

Mr. GEORGE. If the Senator will yield, I will supply it.

Mr. McKELLAR. I am perfectly willing to have the Senator do so.

Mr. GEORGE. The Senator omitted the clause which in substance at least provides "where no other method is provided by the constitution or laws."

Mr. McKELLAR. That is absolutely cured in the statute of 1917, where the governor of the State is given authority to fill all vacancies. What can be broader than that? The answer that opponents of Mr. NYE make is, first, that the legislature did not intend to give to the governor the power to appoint in this particular case.

The next proposition, boiled down, is that even if it was the intention of the legislature to give and even if they did in words give the governor the right to fill a vacancy, then it is void, because this office is not a "State office" as used in the statute. I want to address myself to those two propositions, which I regard as controlling.

The first question is as to the intention of the legislature. As we all know, for more than a quarter of a century, at least within my recollection, up until the adoption of the seventeenth amendment, the election of Senators by the people was a topic of discussion throughout this country. Writers, statesmen, newspapers, magazines, all discussed it. At first it had little following, but as the years passed by the idea grew, until on May 16, 1912, the resolution providing for the seventeenth amendment was adopted by the Congress, and in 1913 was ratified by a sufficient number of the States to make it the supreme law of the land. I call attention to the fact that after the passage of that resolution by the Congress, it was virtually conceded to be the law in this country, and by unanimous consent practically everybody withdrew his objection to it, and especially out West, where the people had early adopted a primary system, and where they believed in elections by the people rather than appointments by the legislature or by the governor. All discussion practically closed after the Congress acted. It was accepted everywhere. Legislatures generally conformed to its provisions without question, and with but little discussion.

By the time the proposed amendment got to the North Dakota Legislature, it was a fact conceded by everybody that the amendment ought to be ratified; and it was ratified.

Three or four years afterwards the Legislature of North Dakota met and reenacted the law giving full power to the governor of the State to make temporary appointments in cases of this kind. If it was not intended to meet the seventeenth amendment, why was it reenacted? But it is said by learned Senators that because the legislature did not discuss the matter, and did not say at that time that was the purpose, that it was not intended by the legislature to grant the governor this right. I say the language imports conclusively the power in the governor to make these temporary appointments, and we must take the language as we find it. I have no doubt in my mind that the reason it was not discussed was because it was a conceded question, because it was just what all those people wanted. The seventeenth amendment was what they had been fighting for for years. There was virtually no difference of opinion about it, particularly in the West, and that law was passed as a matter of course. It is clear to my mind that the language thus plainly shows that it was the purpose of the legislature to give the governor the right to appoint.

Let us consider the facts in this very case. The very reason of the proviso in the amendment is shown in this Nye case. As I understand, the Governor of North Dakota did not call an election immediately, because it would have been very expensive to his State, and for the last few years his State has not been prosperous. Therefore, to save the expense, he postponed the election by the people and made a temporary appointment, as he had a right to do under the constitution and laws of his State, and under the seventeenth amendment.

That was an admirable thing for him to do, if it meant a saving of money to the people of his State. It was just what the Congress and people intended should be done when they adopted the proviso to the seventeenth amendment. That was one of the very purposes, and it was a very proper and wise provision. It did not become incumbent upon the governor to call an election immediately. But he did call it at a convenient time, at a time when it would not be expensive, and then made a temporary appointment in carrying out the provision of the amendment. And, by the way, I believe he is the only governor who has recently acted in these cases who has made his appointment as a temporary appointment to fill a temporary vacancy.

Now we come to the next proposition, whether or not the office of United States Senator is a State office. I wonder how many Senators will really argue that it is not a State office? It has been held by the Senate from 1799 up to this good hour that it is a State office and not a Federal office. Senators on the other side pooh poohed the decision in the Blount case. The Blount case was decided by the Senate in 1799, and it was decided absolutely and for all time—and that decision has been adhered to ever since—that the office of United States Senator is not a Federal office under the Constitution. If it is not a Federal office, by force of necessity it is a State office, primarily. It partakes, of course, of the two, but primarily it is a State office, and has been so held throughout our history.

I want to call attention, if I may, to the last holding of this body on the subject of whether it is a State office or a National office. On page 9 of the Senate rules is shown a resolution offered in 1914 by Mr. Kern, then a Senator from Indiana, giving the form of a certificate of election, and it reads:

This is to certify that on the — day of ———, 19—, A——— B——— was duly chosen by the qualified electors of the State of ——— a Senator from said State, to represent said State in the Senate of the United States for the term of six years.

The very certificate which Mr. NYE brings to this body at this time is in those very words—that he is a Senator from North Dakota "to represent said State in the Senate of the United States" until next June, when the special election will be held. The office of Senator has been held to be a State office, and not a National office, by a uniform course of decisions in this body.

Now I want to call attention to some decisions of the Supreme Court of the United States. Our Supreme Court has had the question before it a number of times. The most famous case of all was the Burton case, involving J. Ralph Burton, a Senator from the State of Kansas. Mr. Justice Harlan delivered the opinion of the court in that case, and I take it that most of us feel that the decisions of the Supreme Court of the United States are binding on us. I quote an excerpt from the decision:

The seat into which he [Mr. Burton] was originally inducted as a Senator from Kansas could only become vacant by his death or by expiration of his term of office, or by some direct action on the part of the Senate in the exercise of its constitutional powers. This must be so for the further reason that the declaration in section 1782, that anyone convicted under its provisions shall be incapable of holding any office of honor, trust, or profit "under the Government of the United States" refers only to offices created by or existing under the direct authority of the National Government as organized under the Constitution, and not to offices the appointments to which are made by the States, acting separately, albeit proceeding, in respect of such appointments, under the sanction of that instrument. While the Senate, as a branch of the legislative department, owes its existence to the Constitution, and participates in passing laws that concern the entire country, its members are chosen by State legislatures and can not properly be said to hold their places "under the Government of the United States." (Burton *v.* United States, 202 U. S. 369–370.)

Here is a direct holding by our Supreme Court following the Blount case, which is referred to in the opinion, as I recall, and here is a direct holding by the Senate itself in our own rules and regulations governing the conduct of the body, that the office of Senator is a State office and not a Federal office. And yet Senators, relying on fine-spun technicalities, attempt to argue that it is not a State office.

Mr. Story in his work on the Constitution, says:

A question arose upon an impeachment before the Senate in 1799 whether a Senator was a civil officer of the United States within the purview of the Constitution, and it was decided by the Senate that he was not, and the like principle must apply to the Members of the House of Representatives. This decision, upon which the Senate itself was greatly divided, seems not to have been quite satisfactory—as it may be gathered—to the minds of some learned commentators. The reasoning by which it was sustained in the Senate does not appear, their deliberations having been private. But it was probably held that "civil officers of the United States" meant such as derived their appointment from and under the National Government and not those persons who, though members of the government, derived their appointment from the States or the people of the States. (Story on Constitution, vol. 1, sec. 793.)

The relation of Senators to the Senate is precisely similar to the relation of electors to the Electoral College, and a number of years ago the question of whether an elector in the Electoral College was a State officer or a national officer came up, and the Supreme Court of the United States in an opinion delivered by Mr. Chief Justice Fuller held that it was a State office. In that case the Legislature of the State of Michigan passed an election law providing for a general election in which there were named a great many State officers and included electors of President and Vice President of the United States. This law was attacked, and Mr. Justice Fuller, in his decision of the case, among other things, said:

In short, the appointment and mode of appointment of electors belong exclusively to the States under the Constitution of the United States. They are, as remarked by Mr. Justice Gray in re Green (134 U. S. 377, 379), "no more officers or agents of the United States than are the members of the State legislatures when acting as electors of Federal Senators, or the people of the States when acting as the electors of Representatives in Congress." A Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, which is required to be the same day throughout the United States, but otherwise the power and jurisdiction of the State is exclusive, with the exception of the provisions as to the number of electors and the ineligibility of certain persons, so framed that congressional and Federal influence might be excluded. (McPherson *v.* Blacker, 146 U. S. 35.)

In the cases of United States *v.* Germaine (99 U. S. 510) and United States *v.* Mouat (124 U. S. 307) Mr. Justice Miller, speaking for the court in both cases, discusses the question of who are officers of the United States and says, in the latter case:

* * * under the Constitution of the United States all its officers were appointed by the President, by and with the consent of the Senate, or by a court of law, or the head of a department; and the heads of the department were defined in that opinion to be what they are now called, the members of the Cabinet. Unless a person in the service of the Government, therefore, holds his place by virtue of an appointment by the President or of one of the courts of justice or heads of departments authorized by law to make such an appointment he is not, strictly speaking, an officer of the United States.

Mr. President, a Senator is elected by the people of his State; his election is certified by the governor of the State; when he comes to this body he is spoken of as the Senator from his State, the Senator representing Tennessee, or West Virginia, or Georgia, as the case may be. We have carried that distinction in our everyday life ever since this body was created, and yet there are Senators here who are willing to say that a Senator is not a State officer, but a Federal officer. I am wondering what those Senators will say when they go back home. I am wondering if any Senator is going back to his State and announce to the people, "I am not your Senator; I am a Senator of the whole Republic. I owe you no allegiance that I do not owe any other State in the Union. I am a national officer; I am not a State officer."

I do not know whether they would do that quite as loudly back home as they do it here in the Senate when it is desired to keep out a man who has been duly certified by the governor of his State.

Mr. STEPHENS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Mississippi?

Mr. McKELLAR. I yield.

Mr. STEPHENS. A moment ago the Senator referred to the fact that a Senator is elected by the people of the State. He might have added, because he knows this quite well, that a Senator is commissioned by the governor of the State.

Mr. McKELLAR. I stated that.

Mr. STEPHENS. I did not catch it. I wanted to call the Senator's attention to a portion of the Constitution of the United States. He no doubt is entirely familiar with it, but I would like to have him discuss it in connection with his argument. There have been frequent references to the provisions of the Constitution. I have not heard all the arguments, but so far as I recall, this particular phrase has not been brought to the attention of the Senate. In Article II of the Constitution, section 3, which has reference to the Executive Department and to the President of the United States, I find this language:

He * * * shall commission all the officers of the United States.

As we all know, the President of the United States has never issued a commission to a United States Senator. I ask the Senator from Tennessee if he does not believe that the fact that this language authorizes the President to commission "all the officers of the United States" excludes the idea that a United States Senator should be designated as an officer of the United States.

Mr. McKELLAR. I think so, unquestionably. To show to what lengths our friends on the other side will be driven, I wish to cite an incident which occurred in this body several years ago. I think it was the case of a Senator from Iowa. A vacancy occurred and one man was appointed as Senator from that State, commissioned by the governor. His credentials were accepted and he was seated in this body. A short time afterwards he went back home and the next thing that the Senate knew, heard, or saw about it was another Senator sitting in the first Senator's place right in front of where the junior Senator from Mississippi is now sitting. Some question was asked about it and it developed that the first Senator appointed had resigned—and had resigned to whom? To this body? Not at all. He had resigned to the governor of his State, and the governor of his State had commissioned another Senator, and another Senator had come in

and taken his place, and all without the Senate's actual or official knowledge. If Senators are national officers and not State officers, surely they would have to resign or give some notice of their resignation to this body, but no notice was given to this body at all of the resignation of the one Senator and the appointment of his successor by the governor of his State.

There has been no decision brought forward, there has been no authority from any court, to sustain the position that a Senator of the United States is not a State officer. There are innumerable decisions from the Supreme Court of the United States running throughout the entire history of the country holding that he is not an officer of the United States. As Mr. Justice Harlan said in the opinion I read just a few moments ago, all officers of the United States must be commissioned by the President unless the Congress gives other authority. We are not commissioned by the President. We never have been commissioned by the President, and therefore, as it seems to me, it is absolutely idle, it is at variance with our entire history, the history of our Government from the very beginning, to say or to argue or to attempt to argue that we are national officers and not State officers. We are the representatives of the States primarily. While we legislate for the whole country, primarily we are State officers of the various States in this body and represent the various States here. Why? Take the matter of the confirmation of all Executive appointments. We know that under our rules all appointments from the State of Mississippi are sent to the two Senators from Mississippi, and so on through all of the States of the Union. Such appointments are sent to the Senators from Mississippi because of that fact. Everything that pertains to his State is sent to the Senator from Mississippi because of the fact that he is the representative of the State of Mississippi here, and it seems to me to be idle to talk otherwise about it.

Stripped of all technicalities, those fine-spun, most remarkably refined arguments on technical questions entirely, what is the truth about this matter? What is the plain everyday truth about it? That is what we should want. We want to do right so far as this appointee is concerned. What is the plain truth about it? It is that the seventeenth amendment to the Constitution of the United States authorizes the legislature of a State to empower the governor to make temporary appointments. The Legislature of North Dakota has authorized the governor of that State to make this appointment. He has made it. I hope some of the Senators who may be interested will listen to the statement I am about to make.

Four Senators have appeared in this body since the last session. I believe one of them appeared just before the close of the last session. The Senator from Massachusetts [Mr. BUTLER], the Senator from Indiana [Mr. ROBINSON], and the Senator from Missouri [Mr. WILLIAMS] have appeared since the last session, all through appointments by their several governors. I want to say to those three Senators, and I say it with the utmost respect and deference, that if the Nye appointment is illegal, in my judgment their appointments are illegal, because the statutes in their respective States are not as full and complete as is the statute in the State of North Dakota. I think their appointments are good, just as I think Mr. NYE's appointment is good. I do not think we ought to be straining at gnats in this matter. We all know perfectly well, and we might as well look it squarely in the face, that if Mr. NYE had been of exactly the same political persuasion as the other three gentlemen, there would have been no question raised about his appointment by the majority party.

I want to call attention for just a moment to a statement made by the Senator from Georgia [Mr. GEORGE] on last Saturday in discussing the question of temporary appointments. By the way, I am glad to see the Senator from Ohio [Mr. WILLIS] is present. I will start out by taking his case first because he might leave before my discussion is closed. The Senator from Ohio was appointed as a Member of this body and when he came here I was very happy to see him appointed for he is an excellent Republican Member of this body. He is as good a man as a Republican can be. I think highly of him. I want to read the credentials his governor sent to this body when he was appointed. They provide that the governor does thereby—

commission him, the said FRANK B. WILLIS, to the United States Senate from Ohio as aforesaid, authorizing and empowering him to execute and discharge all and singular the duties pertaining to said office and to enjoy all the privileges and immunities thereof for the unexpired term—

Not for a "temporary vacancy," not for any vacancy but—

for the unexpired term of Warren G. Harding, resigned.

Mr. WILLIS. Mr. President, will the Senator give me the date of the document which he has just read?

Mr. McKELLAR. The Senator's present job is not in jeopardy, but Comptroller General McCarl might be interested if the Senator's appointment was illegal, as I understand the Senator now claims the appointment of Mr. NYE is illegal. If that be true, the Senator may have to refund to Mr. McCarl some of the salary that he drew during the time he held that appointment. I hope he will not have to do so. I am on the side of the Senator in that controversy.

Mr. WILLIS. I simply want to call attention to the fact that the person who is now addressing the Senate took his seat after he had been elected to the Senate in 1920, and he took the place on the 13th day of January, having been appointed to fill a vacancy from the 13th of January until the 4th of March.

Mr. McKELLAR. Oh, no. Under the terms of the appointment under which he proceeded it was wholly unnecessary for the people of Ohio to elect him, because he was appointed for the unexpired term for which the late Senator Harding had been elected.

Mr. WILLIS. I hope the Senator will stick to the fact that the Senator now addressing the Senate on the present occasion was elected to the Senate at the same time the late Mr. Harding was elected to the presidency.

Mr. McKELLAR. Yes; I so understand.

Mr. WILLIS. And that he was appointed following the election. Having been elected in November, following the election he was appointed by the Governor of Ohio to take his place here on the 13th day of January, and served under that appointment only until the 4th of March, or about six weeks.

Mr. McKELLAR. The unexpired term. Let me read the Senator the amendment. We are talking about technicalities now. Here is what the amendment gave the Governor of Ohio power to do:

Provided, That the legislature of any State may empower the executive thereof to make "temporary appointments."

He did not make a "temporary appointment." He made a permanent appointment for the whole of the unexpired term. If, as the Senator from Georgia and the Senator from Montana and the Senator from West Virginia argued, it was his duty to call an election immediately, that he had no other right, that he could make only a "temporary appointment," then manifestly under that contention the Senator from Ohio was illegally appointed. But that is a matter that will not come up unless the Senator brings it up himself by invoking a different rule in the Senate by voting against the seating of Mr. NYE. I do not think we need to go into that matter further at this time. I want to talk about the four other Senators who have been appointed.

Mr. WILLIS. I think the Senator ought to yield further to me, inasmuch as my name has been brought in here. I am anxious that the RECORD should show the facts—that is, that I was elected to the Senate in the November election of 1920, and that at the same election the then Senator Harding was elected to the Presidency of the United States. Following his election he desired to retire from the Senate, and I was appointed to take his place, taking the office on the 13th day of January, 1921, and serving under that appointment until the 4th day of March, and that was the end of the term of the then Senator Harding.

Mr. McKELLAR. I think that was well understood.

Mr. WILLIS. I want the RECORD to show it, and that the Senator from Ohio is not alarmed that there is to be any inquiry into that matter.

Mr. McKELLAR. If there should be an inquiry involving a refund, it would amount to but two or three months' salary, and, knowing the Senator's splendid financial condition, I know he would not be bothered about refunding that amount to Mr. McCarl.

Mr. GEORGE. Mr. President——

Mr. McKELLAR. I yield to the Senator from Georgia.

Mr. GEORGE. I was not quite sure what the Senator from Tennessee said that the Senator from Georgia had stated.

Mr. McKELLAR. I want to read that in a moment, so there will be no mistake about it. Before I do that I want to refer to the statute of Ohio. When I came to examine it it occurred to me that if my distinguished and able and eloquent friend the junior Senator from West Virginia [Mr. GOFF] had taken up the statutes of the four other States in the same way that he took up the statutes of North Dakota he would have ousted all four of those Senators and probably made my good friend the Senator from Ohio [Mr. WILLIS] pay back his salary.

Mr. GOFF. Mr. President——

Mr. McKELLAR. I want to read to the Senator what the statute of Ohio provides and what it has to say about authorizing the appointment:

When by death, resignation, or otherwise a vacancy occurs in the representation of this State in the Senate of the United States the same shall be filled forthwith by appointment of the governor, who shall have power to fill such vacancy by some suitable person having the necessary qualifications for a Senator.

Under that authority the present senior Senator from Ohio [Mr. WILLIS] was appointed, and I take it he had the necessary qualifications. The only questoin about it was that the governor appointed him, not for a temporary appointment, not to fill a temporary vacancy, as argued by the Senator from Georgia, but for the "unexpired term."

Mr. WILLIS. What was the length of the unexpired term?

Mr. McKELLAR. It was for about three months.

Mr. WILLIS. It was for only about six weeks.

Mr. McKELLAR. But they could have held two or three elections in Ohio in that time if the governor had so desired.

Mr. GEORGE. Has the Senator examined the laws of Ohio?

Mr. McKELLAR. I have not; but if I am wrong about it, I hope the Senator from Ohio will correct me.

Mr. GEORGE. The Senator from Tennessee is wrong in all the other cases practically that he has referred to, and I think the Senator ought to be a little careful.

Mr. McKELLAR. I will take my responsibility for that. What is the trouble about the law I have read from Ohio?

Mr. GEORGE. I ask the Senator if he has exhausted the law on that subject in the State of Ohio?

Mr. McKELLAR. I do not know. I do not think anybody could tell.

Mr. GEORGE. If that is all the Senator knows about the law of Ohio, he should be more careful. I mean this particular law—whether there is any more of it and whether there is any further provision of the kind.

Mr. McKELLAR. No; I have not examined it.

Mr. GEORGE. I think the Senator then in fairness ought to admit that so far as he knows that is the only law he knows of in Ohio on the subject and that he does not mean to say there may not be other laws.

Mr. McKELLAR. There may be. They may have a statute there amending this statute for all I know. I do not know. I do not keep up with the laws of Ohio, and I doubt if any other Senator does so, except the two Senators from Ohio.

Mr. WILLIS. Mr. President——

Mr. McKELLAR. I yield to the Senator from Ohio.

Mr. WILLIS. I do not regard the matter as of great importance, but since it has been the Senator's desire I will say that I would not be prepared, without opportunity to investigate, to state that that is all the law there is on the subject. I want to call the attention of the Senator to the fact that that is an act which was passed by the Legislature of the State of Ohio in response to the seventeenth amendment and in compliance therewith, so it makes the situation as to our State perfectly clear.

Mr. McKELLAR. That is exactly what the Senator from North Dakota desires to say here.

Mr. GOFF. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from West Virginia?

Mr. McKELLAR. I yield.

Mr. GOFF. I will say to the Senator from Tennessee that the only purpose in referring to the statutory laws of the other States was to show the legislative construction which those States had seen fit by affirmative legislation to give to the seventeenth amendment. There was no argument advanced as to the constitutionality of those enactments, for the reason that that issue was not before the Senate, and I do not think it is before the Senate now. If there were error in the past, that is all the more reason why we should, by the light of that mistake, guide ourselves free from repeating it in the present day.

Mr. McKELLAR. Well, Mr. President, I want to read the argument that the Senator from West Virginia made about this matter. I read from the CONGRESSIONAL RECORD of January 7, on page 1265. The Senator from West Virginia [Mr. GOFF] said:

Mr. President, I was saying when the last interruption occurred that if the Legislature of the State of North Dakota had intended to incorporate into its laws on March 15, 1917, the provisions of the seventeenth amendment to the Constitution, either by express reference or by the language used, it would not have given the governor power to fill a vacancy when the amendment itself authorized the legislatures of the several States to confer upon their respective governors—

And I want to call the Senator's especial attention to what follows—

the power only to make "temporary appointments"—

Mr. GOFF. "Until the people should fill such vacancies by election."

Mr. McKELLAR. Wait a moment.

to make temporary appointments until the people should fill such vacancies by election.

That same argument was made by the Senator from Georgia [Mr. GEORGE].

Mr. GEORGE. Mr. President, I did make that argument. Do I understand that the Senator from Tennessee makes any other argument?

Mr. McKELLAR. If the Senator will wait he will see the argument I am going to make about it.

Mr. GEORGE. The Senator mentioned my name, and I think I have a perfect right to ask him if he means to make the argument that the legislature of the State itself has the power to authorize the governor to make anything else but a temporary appointment until the people shall elect?

Mr. McKELLAR. If the Senator from Georgia had been listening to me he would have understood that I meant to make no such argument; but I mean to uphold his argument and the argument which the Senator from West Virginia previously made, that the power to appoint applies only to "temporary appointments." The Senator was perfectly willing in the case of the other Senators, and the Senate seems to have been perfectly willing in the case of the other three Senators to accept not a temporary appointment but virtually a term appointment. I want to call attention to the cases of the other three Senators.

Mr. GEORGE. Mr. President, since the Senator from Tennessee has stated that the Senator from Georgia seems to be virtually willing to accept something in another case which he rejected in this case——

Mr. McKELLAR. Oh, no.

Mr. GEORGE. There is no other interpretation to be put upon the Senator's language.

Mr. McKELLAR. Mr. President, I decline to yield for an interruption of that kind.

Mr. GEORGE. Very well; then I will follow the Senator.

Mr. McKELLAR. Very well.

The PRESIDING OFFICER. The Senator from Tennessee declines to yield.

Mr. McKELLAR. I wish to refer to the case of the junior Senator from Missouri [Mr. WILLIAMS]. I read from the act of the Legislature of Missouri approved March 23, 1915, as follows:

Whenever a vacancy in the office of Senator of the United States from this State exists, the governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected and qualified according to law.

My point is that that does not conform either to the argument of the Senator from West Virginia [Mr. GOFF] or the Senator from Georgia [Mr. GEORGE] in reference to the power of the legislature to enact legislation authorizing the governor to appoint. Here is what the Senator from Georgia said about it:

The seventeenth amendment makes it mandatory upon the governor that upon the happening of a vacancy he shall issue his writ of election.

"Makes it mandatory upon the governor to issue his writ of election."

Mr. GOFF rose.

Mr. McKELLAR. Just one moment. Let me finish this matter.

The Senator from Georgia continued:

The amendment gives one permissive authority to the legislature of a State and that is to enable the legislature, if it elects so to do, to empower the governor to fill the office temporarily until the people can elect as the legislature may direct.

According to that rule—and it is a rule in which I concur; I concur in what both the Senator from West Virginia and the Senator from Georgia have stated on that subject—measured by that yardstick, that the governor has the right only to make a "temporary appointment," this Missouri law is manifestly unconstitutional and void, because it gives the power to fill not a "temporary vacancy" but a vacancy during the term. That is the case of the junior Senator from Missouri. His case could be put in quite the same category with the case of Mr. NYE.

Mr. GEORGE. Mr. President, while the Senator is looking for his notes——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. McKELLAR. I yield.

Mr. GEORGE. I wish to say that if the Senator was agreeing with what I said and not imputing to me any motive or intention to apply one rule to Mr. NYE and to refuse to apply the same rule to some other Senators, then I have nothing further to say.

Mr. McKELLAR. Oh, no; the Senator from Georgia is not applying that rule, but the majority of this body is applying that rule. No question was raised about the other appointments. Take the case of the Senator from Massachusetts [Mr. BUTLER].

Mr. GEORGE. Well, Mr. President——

Mr. McKELLAR. Just one moment.

Mr. GEORGE. The Senator does not impute to me any purpose to apply one rule in one case and another rule in a different case.

Mr. McKELLAR. Not at all; I am upholding the Senator so far as I know how. [Laughter in the galleries.]

Mr. GEORGE. The Senator from Tennessee is having a hard time.

Mr. McKELLAR. I have a hard time upholding the Senator from Georgia because I think he is wrong in his conclusions, but he is right in his argument. He has correctly interpreted the law, but he does not give it its proper effect.

The PRESIDING OFFICER. The Senator will suspend for a moment. The Chair is required under the rules to admonish the galleries that manifestations of approval or disapproval are not permitted.

Mr. McKELLAR. Now, Mr. President, I come to the case of my distinguished friend from Massachusetts [Mr. BUTLER], a man whom I esteem very highly, a man who comes here appointed by the governor of his State just as Mr. NYE was appointed by the Governor of North Dakota. According to the rule laid down by my distinguished friend from Georgia and my distinguished friend from West Virginia, the seat of the Senator from Massachusetts is in the same sort of jeopardy that Mr. NYE's is. Let me read from the law of Massachusetts. Listen to this:

Upon failure to choose a Senator in Congress or upon a vacancy in said office, the vacancy shall be filled—

Does it say a "temporary vacancy?" No. I call the attention of the Senator from Georgia and the Senator from West Virginia particularly to this provision:

shall be filled for the unexpired term at the following biennial State election, providing said vacancy occurs not less than 60 days prior to the date of the primaries for nominating candidates—

The Senator from Massachusetts has come here under a commission from the governor of his State, not to fill a temporary vacancy, the filling of which is authorized by the Constitution of the United States, but he has come here to fill out an unexpired term of nearly two years. Talk about technicalities! How in the world are Senators going to apply a technicality to Mr. NYE of the kind that has been suggested and overlook this glaring instance?

Mr. GEORGE. Mr. President, I know the Senator from Tennessee——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. McKELLAR. I yield.

Mr. GEORGE. I know the Senator from Tennessee does not want to state a matter not in conformity with the actual facts.

Mr. McKELLAR. Indeed, I do not.

Mr. GEORGE. I know that is true.

Mr. McKELLAR. If I have made a mistake, I will be glad to have the Senator call my attention to it.

Mr. GEORGE. I am not defending the right of the Senator from Massachusetts [Mr. BUTLER] to a seat in this body. That question is not involved in this case at all; I have nothing to do with it; but the Senator did not read the statute——

Mr. McKELLAR. I did not read all of it.

Mr. GEORGE. Just one moment. The language which the Senator read refers to an election by the people to fill the unexpired term. After that language this occurs:

Pending such election, the governor shall make a temporary appointment to fill the vacancy, and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy.

I undertake to say that no more apt expression could be put into the law by any American State. The only question that can arise at all is whether the deferring of the election to so late a day after the happening of the vacancy constitutes a compliance with the Federal Constitution or whether it is an attempt to circumvent and evade the Federal Constitution.

Mr. McKELLAR. Now, Mr. President, I will read, in answer to the statement of the Senator from Georgia, a statement made by the Senator from Georgia on last Saturday. He now admits by his statement the Governor of Massachusetts had the right under a Massachusetts statute to make the appointment until the next biennial election, a period of about two years. Here is what he had to say about the same subject on Saturday:

The seventeenth amendment makes it mandatory upon the governor that upon the happening of a vacancy—

"Upon the happening of a vacancy"—

to issue his writ of election.

Mr. WILLIAMS. From what page of the RECORD is the Senator reading?

Mr. McKELLAR. I read from page 1748. The Senator from Georgia said that the seventeenth amendment makes it mandatory upon the governor to issue his writ of election. He continued:

The amendment gives one permissive authority to the legislature of the State, and that is to enable the legislature, if it elects so to do, to empower the governor to fill the office temporarily—

Is a two-year term a temporary appointment?

until the people can elect as the legislature may direct.

In the Nye case, Senators, the governor has already called an election. It is to take place, as I recall, in June next. The call has been issued so as to save the people of North Dakota a large sum of money by holding the election at a time when a general election is being held. It has been called in direct accord with the seventeenth amendment. Yet technicalities are urged in this case. They were not urged in the case of the Senator from Massachusetts, who has been appointed for practically two whole years, and about whose appointment there is nothing temporary. He was admitted to the Senate without a word; he is holding his seat without a word of protest; and so is the Senator from Indiana [Mr. ROBINSON], so is the Senator from Missouri [Mr. WILLIAMS]. How does it happen that technicalities of the kind that have been urged here against Mr. NYE were not urged in reference to the other Senators who have been appointed?

I wish to say to the Senator from Massachusetts, I think his appointment is good, just exactly as I think the appointment of Mr. NYE is good, but if I held the view that has been expressed here by the proponents of Mr. NYE'S exclusion, that it was the duty of the governor immediately to issue a writ of election and call an election, I could not take that view about the Senator from Massachusetts or the Senator from Indiana or the Senator from Missouri. The two views are inconsistent. If it was a mandatory duty of the governor to call an election to fill this vacancy, then manifestly all of the other appointments are absolutely void.

I call especial attention to this matter, not for the purpose of criticizing any of the estimable gentleman who are here serving under appointments of their State governors.

By the way, I do not believe I concluded my discussion of the case of the Senator from Missouri [Mr. WILLIAMS]. For him I entertain the highest respect and esteem and I assure him I am not trying to raise any question as to his right to his seat. I have brought his case up for the purpose of showing that technicalities could be urged against his appointment, however, and the appointment of other Senators, just as they are being urged here to prevent the young Senator from North Dakota taking his seat.

Mr. President, that young Senator from North Dakota comes here as a man of good character, as a man of standing in his State. Not a word has been uttered against him. No reason has been given for his not taking his seat. He is duly commissioned by the governor under a statute that authorizes him to fill all vacancies, in direct accord, as it seems to me, with the Constitution of the United States and the constitution and laws of the State of North Dakota. Yet to-day we have heard technicalities urged against him; and if men had designs against the Senator from Massachusetts taking his seat, if they believed that he ought not to take his seat, the same sort or similar technicalities could be urged against him.

Let us be fair. It is a great thing to be a Member of the United States Senate. It is a great honor to any man to achieve, whether by appointment or by the election of the people. Ought we not to pause, Senators, before we turn down a man that the governor has commissioned in his honest judgment, believing that he was entitled to make the appointment?

I ask for fair play. I do not think technicalities should be interposed in the case one way or the other. I think all four of these men have been duly appointed, and ought to be the

accredited agents and representatives of their States in this body. Why should they not be? Why should the Senator from Massachusetts vote to prevent the Senator from North Dakota from taking his seat, when he himself is here on a commission that appoints him not to fill a temporary vacancy but for the unexpired term, under an appointment not a whit more valid than the appointment of the Senator from North Dakota?

Senators, simply because we have the power of numbers, simply because the majority may be driven, this thing ought not to be done. We ought to be fair to this young gentleman. I never saw him until yesterday, I believe, when he made himself known to me. I know very little about him; but everyone says that he is a man of high character, that he is a man of ability, that he is a man of courage. Not a word has ever been said against him. No imputation of immoral conduct of any kind, nature, or description has been made against him. No reason has been given why he should not be here, except, perhaps, that he is not in accord with the views of a large number of Senators on the other side of the Chamber. Under those circumstances it seems to me it would be wrong for us to turn out this splendid young representative of a great State of the West. We ought to pause before we do it. I do not want it on my conscience. I shall not have it on my conscience. I think he is just as much entitled to his seat as is Mr. BUTLER, Mr. ROBINSON, or Mr. WILLIAMS. I shall vote to seat him.

Mr. UNDERWOOD. Mr. President, I do not intend to detain the Senate very long with a statement of my views in regard to this case. The question is of such grave importance, however, that I do not care simply to vote without saying why I vote, because there is a decided division of sentiment in the Senate on this subject.

So far as I understand the case before the Senate, it is not a political case. As I understand it, the political equation does not enter into the case on either side of the Chamber. The only question involved is whether, under the Constitution and the laws of the United States, the appointee of the Governor of North Dakota is entitled to take his seat as a Member of this body at this time.

The point of view that I desire to state may have already been expressed in the debate that has gone on in the Senate, as I have been absent in committee meetings part of the time; but I desire to state briefly the reasons for the conclusion I have reached in regard to this matter.

Mr. President, I rejoice that I live in a country that is governed fundamentally by law and not by men. The government of this country is the Constitution of the United States and the laws that are made under it. There is no source of authority higher than the Constitution and the laws.

The government of our country—that is, the laws—may be changed by the people of the United States in all particulars save one. It is not necessary for an oppressed people in this country to come out of oppression by raising the flag of revolution. There are orderly methods by which their rights may be achieved and maintained, but there is one particular in which even the sovereign people of these United States have no power to change the law governing them, and that is in the matter of equal representation of the States in this body.

In the original compact made between the States in order that we might have a more perfect Union it was agreed, to satisfy the smaller States and allow them to be assured that the larger States would not oppress them in the future, that every State in this Union should have equal representation in the Senate of the United States.

The last clause of Article V of the Constitution of the United States says:

> That no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Suffrage is the power to vote. A State shall not be deprived without its consent of its equal power to vote in the United States Senate. What did that mean? It did not mean that at some times or in some way we may have equal representation—no! The lawyers in discussing this case have repeatedly said in the argument on the floor of the Senate that these statutes must be taken by their four corners, and we must judge within the terms of the law what the law means. In reply to that I can only say that we must take the Constitution by its four corners and judge within the Constitution what the Constitution meant when it said that there shall be equal suffrage in the Senate of the United States.

I know of no other way of determining what was meant by the men who wrote the Constitution and what was meant by the people of the States when they ratified it than within the Constitution itself. In Article I, section 3, we find that question answered. It says:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Further on in the same section there is a statement to this effect:

> If vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

When the Constitution decided that every State should have equal representation, and that it should not be deprived of it except by its own consent, it said that in Article V.

Mr. CARAWAY. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Arkansas?

Mr. UNDERWOOD. Yes.

Mr. CARAWAY. It left the manner of selecting the Senators to the States, did it not?

Mr. UNDERWOOD. Yes.

Mr. CARAWAY. The Senator would not be willing now to say that if a State had neglected temporarily to send a Senator here the Senate itself could fill the vacancy, would he?

Mr. UNDERWOOD. Oh, no. I will answer the Senator's question if he will just listen to me. The Senator is a little ahead of my argument; but if the Senator can show conclusively that any State in this Union has consented not to be represented on the floor of the United States Senate, of course, I think his point would be well taken. I want proof, however, of the fact that it has consented, and I am coming to that.

Mr. CARAWAY. Mr. President——

Mr. UNDERWOOD. I will answer the Senator in a moment. His point is one that should be considered, as to whether the State has consented, and that is the real gist of this question.

Mr. CARAWAY. May I ask the Senator whether that is not the only question here?

Mr. UNDERWOOD. I want to lay my predicate before I come to the argument. I can not argue my case until I state it.

As I said, we have Article V of the Constitution, which says that every State shall have equal suffrage in the Senate; and then we must determine what was meant by the men who made the Constitution when they said that the States should have equal suffrage here, and that even the power of all the people of the United States united in every State save one could not deprive that one of equal suffrage in this legislative body without its consent. When we seek to see what the Constitution says, we find in Article I, section 3, that it is provided that the legislature shall elect two Senators, and that in the case of a vacancy the governor shall appoint.

Up to that time, in my judgment, in the absence of repudiation on the part of a State of a desire to have two Senators sit in this body, the power of appointment was vested in the governor by the Constitution of the United States itself, regardless of State action, unless, as I say, the State itself by affirmative action consented to withdraw. That gave the equal representation which the Constitution contemplated, the right of the legislature to elect, and, in the case of vacancy, for the governor immediately to appoint, not at some subsequent period, but immediately to appoint, in order to hold the balance of power in this body, in order that the smallest States might have their check in the consideration of legislation in this body.

That was the condition until the seventeenth amendment was adopted, and I think I can say without contradiction that if the seventeenth amendment to the Constitution of the United States, which took away from the legislature the power to elect and provided that the people of the States themselves should elect, so far being entirely within the terms of the Constitution, had merely provided that in the happening of a vacancy it should not be filled except by a general election, the amendment would have been violative of the Constitution itself and would have been a letter of the law that was unwritten, because the one pact you can not violate is that by which the States are guaranteed equal representation.

I think that is perfectly apparent. Let us go a step further and put the case on all fours. Suppose in adopting the seventeenth amendment it had been proclaimed by Congress and ratified by the people providing that Senators should be elected

to this body only at a general election, which happens every two years, and by the people, and suppose a Senator had died the day after election. Then, of necessity, there would have been a vacant seat in the Senate of the United States for two years, with no power to fill it. Is there any Member of this body who will say that that provision would have been within the terms of the original Constitution, which provided that there should be equal representation in the Senate, and that it should not be taken away from any State? I do not think anyone would be so bold as to assert that conclusion. The drafters of the seventeenth amendment recognized that fact. If I recollect aright, it was in that form when it was originally introduced, and it was amended so as to provide that the governor might appoint if the legislature so provided. I will read the amendment. After providing for the election of Senators by the people, the seventeenth amendment provides:

> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

That is within the terms of the original pact.

> *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

They put that clause in the seventeenth amendment to make it conform to the limitation in the fifth Article of the Constitution of the United States.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Georgia?

Mr. UNDERWOOD. I yield.

Mr. GEORGE. The Senator, of course, recognizes the fact that the seventeenth amendment itself would have been a grant by the States to the Federal Government. It would have been a later constitutional grant. If there had been any conflict, it would have control over the prior fifth amendment.

Mr. UNDERWOOD. The Senator was not here when I started my remarks, and that is just exactly what I say is not so. I deny that proposition. That is exactly the argument I make.

Mr. GEORGE. Then I understand the Senator to take the position that no grant could have been made——

Mr. ROBINSON of Arkansas. Will the Senator from Alabama yield to me?

Mr. GEORGE. In just a moment. I may have misunderstood the Senator. Was the Senator speaking of the provision of the Constitution which provides that it can not be amended so as to deprive any State of equal representation?

Mr. UNDERWOOD. I say that the Constitution of the United States carries an inhibition in itself that prevents any power in this country from taking away from any State equal representation on the floor of the Senate, except by the consent of the State itself.

Mr. GEORGE. Absolutely; but suppose all of the States had consented to a subsequent grant of power. There must have been a consent, of course.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

Mr. UNDERWOOD. I yield.

Mr. ROBINSON of Arkansas. Does the Senator from Georgia say that by an amendment to the Constitution the States could be deprived of their equal representation in the Senate without their consent?

Mr. GEORGE. Not unless all of them consented.

Mr. UNDERWOOD. That is what I am coming to.

Mr. GEORGE. Because that is the limitation on this amendment.

Mr. UNDERWOOD. Now, we come right down to what I have been trying to lay my predicate to lead to. The Senator from Georgia agrees with me that you can not deprive North Dakota of its representation in the Senate without its consent. I think we are all agreed on that proposition. I say that consent, of course, does not mean in the Senate Chamber when we enact the legislation submitting a constitutional amendment to the people. It must mean the consent of the people of the State, not to-day, or to-morrow, but their consent to be deprived of equal representation at all times.

Mr. GEORGE. Mr. President, the Senator from Alabama, who has the same mind on the fundamental proposition that I have, of course, will pardon me. My conception of the matter is simply this: That no State shall by law be deprived of its equal right of suffrage in the Senate, but I concede, and I conceded yesterday, that no law made expressly for that purpose, or no unreasonable construction put upon a law, could be sustained if it did have the effect of depriving a State of its equal representation.

Mr. UNDERWOOD. The Senator stands on a law. I do not agree with him. I say this pact was the binding cord which made this Union possible; it was the irrevocable bond that was agreed to in order that we might have a more perfect Union, and I contend that it is not in the power of any man, or any set of men, to deprive any State in the Union of its protection under that bond, except by its own consent, and that is a consent which continues to be a consent.

Mr. CARAWAY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Arkansas?

Mr. UNDERWOOD. I yield.

Mr. CARAWAY. I do not think I follow the Senator, and, of course, it is my fault. Is it the contention of the Senator from Alabama that the provision in the seventeenth amendment to the Constitution which provides that a governor may appoint only after the legislature has authorized him so to do is without effect, and that the governor has the inherent right to make the appointment?

Mr. UNDERWOOD. I am coming to that, if the Senator will allow me. It is perfectly clear to my mind, if not to the minds of my brother Senators, that we have an irrevocable pact guaranteeing equal representation, and that we must live up to the terms of that pact.

Mr. CARAWAY. Let us concede that. Then is it the Senator's contention that the governor has the right to make the appointment, notwithstanding the fact that the Constitution says he may do it only after the legislature has so empowered him to do?

Mr. UNDERWOOD. I can not answer the question in the language of my colleague, but if my colleague will allow me to answer the question in my own way, I will endeavor to do so.

Mr. CARAWAY. It strikes me that the question naturally forces itself to an answer.

Mr. UNDERWOOD. Surely it forces itself to the answer. The Senator is exactly right, that it requires an answer, but I want to answer it in my own way, and not in the way the Senator from Arkansas invites me to answer it. The Senator is exactly right in saying that there must be consent shown, but what I say is this: That the Federal Government has not the power, under this pact, to fix the terms of consent. That is probably where I differ with my friend from Arkansas. I say that the Federal Government has not the power to fix the terms of consent under the seventeenth amendment.

Mr. CARAWAY. The Senator's contention, then, is that the provision of the seventeenth amendment which gives the governor the power to appoint only when the legislature should authorize him so to do is absolutely void?

Mr. UNDERWOOD. It would be void if I had the Senator's viewpoint of the question, but I have not his viewpoint, because I am prepared to give it a construction which will prevent it from being void.

Mr. CARAWAY. The thing I had in my mind was that I was opposed to saying that the States had absolutely no way to protect themselves, and that whatever the Senate says, a State must accept. I think the States have some kind of right under the Constitution to say that they could select their representatives a certain way. The Senator evidently does not agree with me.

Mr. UNDERWOOD. The Senator does not understand me to say that, I am sure, because although I may not always be clear in my language, I know that I made the point clearer than that.

Mr. CARAWAY. Let me ask the Senator this question, then: Is it the Senator's contention that this provision, that the governor shall not appoint a Senator unless the legislature shall authorize him so to do, is absolutely void?

Mr. UNDERWOOD. I am coming to that question, if the Senator will allow me. The Senator wants to put me in the attitude, by his question, of saying that the governor of a State can thrust on an unwilling people a representative that they do not want. That is not the issue, and I am not going to satisfy the Senator by saying yes or no to that. It is a question as to whether the people of that State are entitled to have their great constitutional rights represented here by two men.

Mr. CARAWAY. And who shall determine that—the people of the State, or a Senator here in the Senate? That is what I want to know.

Mr. UNDERWOOD. If the Senator had allowed me, before now I would have answered that; but I can not answer it if he occupies the floor and I can not talk.

Mr. CARAWAY. I will not interrupt the Senator any more.

Mr. UNDERWOOD. I am delighted to have interruptions, but I want to reserve the right to answer a question in my own way.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. UNDERWOOD. I yield to the Senator.

Mr. GEORGE. I was going to ask the Senator, while he said that in this case he thought he should not be required to answer the questions suggested by the Senator from Arkansas——

Mr. UNDERWOOD. I did not say that. I did not say anything about "in this case." I said to the Senator from Arkansas that if he would allow me, I would try to answer his questions. I want time to talk, however. I can not answer if *he will not* give me the time to talk. In other words, I refuse to answer the questions out of the mouths of my friends. I have great respect for the legal ability and talent of both of my friends who have interrupted me, and I respect their opinions as lawyers, but I can not allow them to answer the questions in their own language.

Now we come down to the question of consent. The seventeenth amendment provides for the election of Senators by the people, on which we have no dispute. That was perfectly in accord with the general pact. But it provides in the last clause that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancy by election. But that is not all. See what it says before we come to that proviso:

> When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill the vacancies.

It contemplates an immediate election. Then to prevent a lapse of representation in the Senate it provides that the legislative authority may grant the right to the governor of the State to appoint somebody. The position I take is this: If we construe the seventeenth amendment to mean that an unwilling legislature or a partisan legislature might deprive the people of the State by its ipse dixit of the right of representation, I do not think that would be in accord with the original Constitution. More than that, I say in the construction of the seventeenth amendment, changing from the election of Senators by the legislature to the election of Senators by the people, that we must put such construction on the language used that, as nearly as may be, will come within the terms of the original pact and allow every State equal representation on the floor of the Senate at all times. I say we can not deprive a State of the Union of this equal representation by inaction, failure to act. Congress and the ratifying power had no power to construe their consent by inaction; but we have to show affirmative action to show that they gave their consent.

Mr. GEORGE. Mr. President, I would like to ask the Senator, with his permission, if he does not think the fact that North Dakota was one of the ratifying States, and therefore consented to the constitutional provision, has some bearing upon the general question?

Mr. UNDERWOOD. I do not know whether North Dakota was one of the ratifying States or not. I have not looked up that question; but I do not think the fact that they ratified shows an affirmative intent on their part to surrender their representation on the floor of the Senate. My State ratified the amendment, and it had hardly been ratified before the governor commissioned a man to come here to represent the State and he was rejected upon the floor of the Senate.

Mr. SWANSON. Mr. President——

Mr. UNDERWOOD. I yield to the Senator from Virginia.

Mr. SWANSON. May I see if I understand the Senator's contention? As I understand, it is that the Constitution gives each State the right to have two representatives and that the provision allowing the governor to appoint in order to accomplish that purpose continues operative until the legislature gives him power to appoint.

Mr. UNDERWOOD. Yes; he holds that power.

Mr. SWANSON. He holds it until the legislature gives him the power to appoint, because if by nonaction it did not do it a State would be deprived of equal representation in the Senate.

Mr. UNDERWOOD. Certainly.

Mr. SWANSON. The provision of the Constitution giving the governor the power to appoint so as to prevent inequality of representation in the Senate continues until the State acts and gives him the power so that it can not be deprived of representation by nonaction.

Mr. UNDERWOOD. Either the State must consent affirmatively that it will not have a man representing it here by gubernatorial appointment or the right exists under the original pact.

Mr. GEORGE. Then it was within the power of the States to have absolutely defeated the whole force and effect of the seventeenth amendment if they so elected.

Mr. UNDERWOOD. I think most of the States would have defeated it if they had taken the viewpoint of my friend from Georgia, but they did not take that viewpoint. They have generally, I think, not taken that viewpoint because they might provide for the appointment of men to fill vacancies. That was not their viewpoint in the construction of the act. Their viewpoint was that the power to appoint held. I concede that if there is any State in the Union that did not want to be represented on the floor of the Senate by an appointed Senator—and there are several—they had the right to give their consent in a lawful way by the action of the legislative body and the signature of the governor of their own State. But what I contend further is that consent must be given affirmatively, by affirmation of the State acting through its constituted authorities, and not by negation; that we can not presume that the State has given its consent to forfeit its represenation on the floor of the Senate. We have to assume that it demands its representation because that was in the original pact and it was entitled to the representation.

Of course I realize that that is not so much of an issue now, but at one time there was a temporary wave sweeping over the country expressive of the view that no governor should be trusted with the power of naming a man to represent a State on the floor of the Senate. The idea did not get very far. There are three or four States in the Union which by affirmative action have declined to give their governors the right to appoint or have taken away that power. In that way they could exercise the consent of depriving themselves of a seat on the floor of the Senate. North Dakota has not done that. North Dakota has passed no affirmative legislation saying that the governor of that State shall not fill a vacancy. It has not even been silent on the question. If it had done nothing I should say it would still retain the power under the original pact to fill the vacancy.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Montana?

Mr. UNDERWOOD. Certainly.

Mr. WALSH. I would like to remind the Senator from Alabama that my State was without representation in the Senate at one time for two whole years. The governor of the State appointed some one to fill what was conceived to be a vacancy here, but the Senate held that the governor did not have any right under the circumstances to make the appointment.

Mr. UNDERWOOD. They did the same thing with reference to the State of Alabama, but I never agreed with the decision.

Mr. WALSH. Quite so. They did the same thing for the State of Pennsylvania. The Hon. Matt Quay came here at one time under an appointment by the Governor of the State of Pennsylvania, which had never by affirmative action declared that it wanted only one representative in this body; yet the Senate refused Mr. Quay a seat here. There was a third case. The State of Washington was refused a seat here. There was a man with a commission from the governor of his State in all three instances, but the appointment made, as it was contended at least, was not in conformity with the Constitution.

Mr. UNDERWOOD. I said when I took the floor that I recognize that this is a very much disputed point. Each of the cases to which the Senator has referred brought a contest to the floor of the Senate. Of course, the reasons given varied with the number of men who spoke, because we approach our conclusions from many different angles, which is one of the virtues or fallacies of human nature. Nevertheless it was never admitted by all and the contests continued. I never agreed to that viewpoint and I do not agree to it now. I do not know what a majority of the Senate may decide in this case, but from my viewpoint I think the original pact stands and that the Congress or the ratifying power has no right to violate that pact by depriving a State of equal suffrage on the floor of the Senate when the means that we recognized in the original draft of the Constitution are still exercised to fill a vacancy, unless a State by its own affirmative action consents to be without representation.

I admit that the States that have refused by their legislative action to allow the governor to appoint are lawfully deprived of their representatives, because the Constitution says that they can consent, and that is the way they can consent, in my judgment. The only way they can consent is by affirmative action on their own part in each State where the question may become involved. But North Dakota has given no such consent. She has not consented to such a proposition. If she has taken any action at all, and I am inclined to think she has, it is on the other side. She had a statute, if a statute was needed before the seventeenth amendment was passed, authorizing her governor to appoint "all officers," which, I understand, is contended to mean only State officers. Then the question is

whether this is a State office. I shall not go into the exigencies of that question, because my viewpoint does not hang on that. I think all that demonstrates is that North Dakota did not give its consent to be deprived of equal representation. On the other hand, if there was any exigency at all by reenactment of this statute authorizing the governor to appoint, it is an affirmation that it wanted its governor to appoint.

If that is the case, then when we come to consider this case as to whether we shall seat this gentleman or reject him should we take the broader viewpoint under the pact made in the original Constitution that cemented this Government together and recognize the fact that on this floor there should be equal suffrage at all times, or shall we take a viewpoint that is—and I do not say it in an offensive way—technical, that is within the musty volumes of the law, within the lawyer's technical reasoning, and find that a strict construction of the statute passed in North Dakota does not allow the governor to appoint. I recognize that we have to have rules of construction on legal points and that the courts and the lawyers have got to follow them in order to avoid confusion and bring about uniformity of decision. Of course, that is true. But I think there is no greater evil that can grow up in the body politic than for the courts and the legal machinery to attempt to tie the hands of fundamental principles by the close reasoning of legal technicalities.

With this proposition before us, with the viewpoint that under the original pact North Dakota is entitled to 2 votes on the floor of the Senate, I propose to resolve any doubt, if there is a doubt, in favor of giving her the representation to which she is entitled under the Constitution of my country. Therefore, when the time comes I shall vote to seat Mr. NYE as a Senator from the State of North Dakota.

Mr. FRAZIER obtained the floor.

Mr. BROOKHART. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	McKinley	Sheppard
Bayard	Frazier	McLean	Shipstead
Bingham	George	McMaster	Shortridge
Blease	Gerry	McNary	Simmons
Borah	Gillett	Means	Smith
Bratton	Glass	Metcalf	Stanfield
Brookhart	Goff	Moses	Stephens
Broussard	Hale	Neely	Swanson
Bruce	Harris	Norris	Trammell
Butler	Harrison	Oddie	Tyson
Cameron	Heflin	Overman	Underwood
Capper	Howell	Pepper	Wadsworth
Caraway	Johnson	Pine	Walsh
Copeland	Jones, Wash.	Pittman	Warren
Curtis	Kendrick	Ransdell	Watson
Deneen	Keyes	Reed, Pa.	Wheeler
Dill	King	Robinson, Ark.	Williams
Edge	La Follette	Robinson, Ind.	Willis
Ernst	Lenroot	Sackett	
Ferris	McKellar	Schall	

Mr. SHEPPARD. I desire to announce that my colleague, the junior Senator from Texas [Mr. MAYFIELD], is absent from the Senate on account of illness.

The VICE PRESIDENT. Seventy-eight Senators having answered to their names, a quorum is present.

Mr. CURTIS. Mr. President, if the Senator from North Dakota [Mr. FRAZIER] will yield to me, I should like to submit a proposal for unanimous consent.

The VICE PRESIDENT. The proposal will be read.

The Chief Clerk read as follows:

Ordered, by unanimous consent, That on the calendar day of Tuesday, January 12, 1926, and at not later than 3.30 o'clock p. m., the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the resolution, Senate Resolution 104, declaring GERALD P. NYE not entitled to a seat in the United States Senate from the State of North Dakota through the regular parliamentary stages to its final disposition.

Mr. ROBINSON of Arkansas. Mr. President, I think perhaps the time has arrived when an agreement can be reached. The debate has been proceeding for some days, and probably the arguments have about been exhausted. There are, however, a number of Senators who desire to make brief addresses, and some of them may desire to speak at considerable length. I am going to suggest to the Senator from Kansas that the request be modified so as to provide that after the Senate concludes its business on this calendar day and beginning tomorrow no Senator shall speak oftener than once nor longer than 15 minutes, so as to afford an opportunity for such Senators as desire to speak to do so before the hour to vote arrives.

Mr. DILL. I do not see why on to-morrow Senators should be limited to 15 minutes. I think there might be a limit of 15 minutes perhaps after a certain hour, but not that it should apply to the entire debate to-morrow.

Mr. ROBINSON of Arkansas. I merely suggested that limitation in order that one Senator would not take the floor and consume the entire time to the exclusion of other Senators who have an equal right to express their opinions. If any Senator desires that the suggestion be changed, I will be glad to change it. The request of the Senator from Kansas fixes the hour for voting at 3 o'clock, as I recall.

Mr. CURTIS. It fixes the hour at 3.30 o'clock p. m.

Mr. ROBINSON of Arkansas. That would afford opportunity for seven Senators each to speak half an hour. I think I will modify my request and ask that the proposed agreement be changed so as to provide that no Senator after the conclusion of to-day's business shall speak oftener than once or longer than 30 minutes.

Mr. CURTIS. That agreement will be perfectly satisfactory to me. I have made inquiry and found that there are at least five Senators who want to speak upon this subject. I would be willing to go further and agree that when the Senate shall conclude the business of the Senate to-day it shall take a recess until 11 o'clock to-morrow, in order to give every Senator an opportunity to speak who desires to do so. We have a special order fixed for 4 o'clock to-morrow afternoon, and I thought that fixing 3.30 o'clock as the time to vote would give those who desire to be heard an opportunity to speak.

Mr. ROBINSON of Arkansas. From the suggestions that have been made by the Senators around me, I think that a limitation of debate to half an hour will provide for all the Senators who desire to speak. Some of them may not take that much time.

Mr. NORRIS. Mr. President, may I interrupt the Senator from Kansas?

Mr. CURTIS. Certainly.

Mr. NORRIS. My attention was diverted, and I did not hear the reading of the proposed unanimous-consent agreement. Does it provide definitely for a time for voting or does it say on or before a certain hour?

Mr. CURTIS. It provides definitely for the time at not later than 3.30 o'clock.

Mr. NORRIS. I wonder if we can not agree to fix a time definitely?

Mr. CURTIS. I am perfectly willing to make it definite.

Mr. ROBINSON of Arkansas. Let us fix the hour at 3.30 o'clock.

Mr. NORRIS. Let us make it definite, and then put in a limitation of debate "except by unanimous consent."

Mr. HEFLIN. What objection would there be to fixing the hour to vote at 4 o'clock?

Mr. DILL. Or 5 o'clock?

Mr. CURTIS. There is a special order set for 4 o'clock.

Mr. MOSES. May I ask, in connection with the proposed agreement, what is the plan of procedure for to-day? Is the session to continue longer?

Mr. CURTIS. We wish to continue just as long as we can. I judge we can hold a quorum until half-past 5 or 6 o'clock. I am willing to agree to meet to-morrow at 11 o'clock, if that is satisfactory, so as to give every Senator plenty of time. An extra hour, I am quite sure, would afford ample opportunity for all Senators to speak.

Mr. DILL. Some Senators who have occupied the floor have consumed three or four hours, while other Senators have had no chance to express their views at all, and I do not know at this time why we should be shut off at 3.30 o'clock to-morrow afternoon when we are told that there are five Senators on the other side who want to speak.

Mr. CURTIS. I beg the Senator's pardon, but most of them are on the Senator's side of the Chamber.

Mr. DILL. I do not see why this matter should be rushed when some Senators have talked for three or four hours apiece.

Mr. ROBINSON of Arkansas. I suggest that the Chair submit the question.

The VICE PRESIDENT. Is there objection to the request for unanimous consent submitted by the Senator from Kansas?

Mr. CURTIS. I suggest, Mr. President, that the request be read again.

The VICE PRESIDENT. The request for unanimous consent will be again read.

The Chief Clerk read as follows:

Ordered, by unanimous consent, That on the calendar day of Tuesday, January 12, 1926, at 3.30 o'clock p. m., the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the resolution (S. Res. 104) declaring GERALD P. NYE not entitled to a seat in the United States Senate from the State of North Dakota, through the

regular parliamentary stages to its final disposition, and that after the Senate concludes its business to-day no Senator shall speak more than once or longer than 30 minutes upon the resolution or any amendment thereto.

Mr. NORRIS. I suggest to the Senator from Kansas that there be added the words "except by unanimous consent."

Mr. CURTIS. I will agree that those words be added.

Mr. NORRIS. I should like to say to the Senator further that I should dislike very much to have the Senate meet at 11 o'clock to-morrow, because of the committee meetings which will take place in the morning.

Mr. ROBINSON of Arkansas. There should be added to the agreement also that when the Senate concludes its business to-day it shall take a recess until 11 o'clock to-morrow.

Mr. NORRIS. Until 12 o'clock. It will be inconvenient for Senators who have committee meetings in the morning to attend before 12 o'clock.

Mr. BLEASE. Mr. President, I object to the immediate consideration of the request for unanimous consent.

The VICE PRESIDENT. Objection is made.

Mr. BLEASE. I do not expect to speak on the Nye case, but I think every Senator ought to have a fair show.

Mr. FRAZIER. Mr. President——

The VICE PRESIDENT. The Senator from North Dakota has the floor.

Mr. BLEASE. I am sorry, Mr. President, to have to object, but I do not believe in gag rule.

Mr. CURTIS. Then, I give notice that I shall ask Senators to remain here to-night just as long as possible.

Mr. BLEASE. I am perfectly willing to do anything that will facilitate the business of the Senate.

Mr. ROBINSON of Arkansas. Let me suggest to the Senator from South Carolina that the agreement which is now proposed will provide ample time for all Senators who desire to speak; at least no Senator who expects to speak has indicated that additional time will be required.

Mr. BLEASE. I am just, as a general rule, against anything like gag law; I object to it at this time, and I expect to vote against everything of that nature that comes up here during the whole six years that I am in the Senate.

Mr. HEFLIN. I want to suggest to the Senator that there is no gag rule about this. The whole Senate, except himself, is willing that the agreement shall be entered into. There does not seem to be any "gag" about that.

Mr. BLEASE. I am glad that there is one time when I can control the Senate. I thank the Senator. [Laughter.]

Mr. HEFLIN. I suggest that if we do remain here to-night it will probably be necessary to keep a quorum, and my good friend from South Carolina must be here all the time.

Mr. BLEASE. That will suit me fine. I am always willing to attend to business. [Laughter.]

Mr. FRAZIER. Mr. President, legal arguments against the seating of Mr. NYE have been expounded at great length. Likewise arguments for his being seated have been well set forth. I have been told by a number of Senators that they would like to vote for Mr. NYE if they could see their way clear legally to do so. I have been told that no politics would enter into this case, and I will frankly say that I believe some have honestly tried to keep politics out of it.

I have nothing but the highest respect for the opinions of those who honestly differ with me, and, naturally, opinions differ in a case of this kind. Opinions differ on points of law, as has been shown in this case. That is nothing strange, however. We frequently find even our much-exalted Supreme Court of the United States handing down divided opinion—sometimes so divided as to have five of those most eminent jurists of one opinion and four of them, equally as eminent, of an opposite opinion.

In the case of the seating of Mr. Glass, of Alabama, to which reference has been made, the records show that there was a divided report of the committee, and that after the question was debated on the floor for days the vote was divided, and he was refused a seat by the small margin of one vote. If there was so much of merit in the Glass case as to warrant so close a vote, it would seem to me that in this case there is vastly more legal merit and logical reason for votes for the seating of Mr. NYE.

Briefly, the great difference between this North Dakota case and the Alabama case, as I see it, is this:

First. That there is a clause in the North Dakota constitution, the supreme law of our State, which provides:

> When any office shall from any cause become vacant, and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

There was no such provision as this in the constitution of Alabama.

Second. The North Dakota Legislature, in 1917, amended and reenacted a law relating to the filling of vacancies. In Alabama the law relating to the filling of vacancies was passed before the seventeenth amendment to the United States Constitution was adopted, but in our case this law was enacted in 1917, some four years after the adoption of the Federal amendment.

It has been stated here that this law was an old law, amended in 1917. It was; but the fact remains that it was reenacted in 1917, and therefore it seems to me that it applies to this case.

Mr. President, it seems to me that these provisions take this case entirely out of the case of Mr. Glass, of Alabama.

The vacancy law of North Dakota, reenacted in 1917, does not specifically mention United States Senators; but it does provide that all vacancies, with the single exception of members of the legislative assembly, shall be filled by appointment, and uses the words "all State and district offices."

Whatever we may think about the office of United States Senator being a Federal office or a State office or a combination of both, it seems to me we must admit that in so far as the election or appointment goes it is a State office. A Senator is elected by the voters of the State and gets his credentials from the State officials, or he is appointed by the governor of the State and receives his credentials from the Governor. If he resigns, his resignation goes to the governor—not to the President of the United States or the President of the Senate but to the governor of the State from which he comes.

Mr. President, there was a case in North Dakota—I think in 1910—of a vacancy caused by the death of a Senator and an appointment was made by the governor. Of course, that was under the old law. The Senator who was appointed sent in his resignation to the governor of our State, to take effect on a certain date. When that date came and the appointee came from North Dakota and his credentials were presented here on the floor of the Senate the Members of this body did not know that Senator Thompson had resigned until the credentials of the new appointee were brought in before the body.

Another thought occurs to me along this line in the discussion of the question of whether this is a State or a national office. An attorney came into my office this morning and said: "Has it occurred to you that a United States Senator elected by the people of his State is a State officer, at least until he has taken his oath of office down here in the Senate and has become a United States Senator?" And if he is a State officer until he takes his oath of office, at least he can not be a Federal officer until he takes his oath of office here. Our North Dakota law, I believe, covers the case.

Furthermore, Mr. President, it seems to me that the Senators who have practiced law—and most of them have, because the majority of them are attorneys—and who are accustomed to take either side of any case, argue it, and find precedent and law upon which to base their argument, ought to find precedent enough and law enough in this case to convince them that there is at least a reasonable doubt that the governor did act in good faith and that he did have the authority to make this appointment; and if there is even a reasonable doubt, Senators must admit that it should be decided in favor of the State, in order that North Dakota may have her constitutional right of equal suffrage in the Senate.

It has been held that this appointment is irregular. Mr. President, there have been a number of irregularities in the membership of this body since the organization of the United States Senate.

There is a provision in the Constitution of the United States which reads as follows:

> No person shall be a Senator who shall not have attained to the age of 30 years.

Note the word "shall." There have been four Members of this body who were not 30 years of age at the time they took their seats in this body.

The first was Armistead Thompson Mason, of Virginia, who entered the United States Senate January 3, 1816, aged 28 years 5 months and 30 days.

The second was Elias Kent Kane, of Illinois, who entered the United States Senate March 4, 1825, aged 28 years 8 months and 28 days.

The third was Stephen Wallace Dorsey, of Arkansas, who entered the United States Senate March 4, 1873, at the age of 29 years and 7 days.

The last was Henry Clay, of Kentucky, who entered the United States Senate November 19, 1806, aged 29 years 7 months and 7 days.

The story goes that some one questioned the age of Mr. Clay.

Mr. NEELY. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from West Virginia?

Mr. FRAZIER. Yes; I yield.

Mr. NEELY. Does the Senator think that Henry Clay ever would have been permitted to sit in this body if the Senators who have spoken against Mr. NYE had been here and had a vote on the question and could have prevented him from occupying a seat here while he was under 30 years of age?

Mr. FRAZIER. Mr. President, of course that is purely a personal opinion, but it is my opinion that he would not.

The story is that some one questioned the age of Mr. Clay, and he said: "You can ask my constituents in regard to my age," apparently thinking that his constituents approved his choice as a Member of the United States Senate, whether he was of age or not.

Mr. BRUCE. Mr. President, may I interrupt the Senator for a moment?

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Maryland?

Mr. FRAZIER. I yield.

Mr. BRUCE. Was it not John Randolph, of Roanoke, who said that to the Clerk of the House of Representatives when he appeared as a Member of that body and was asked his age?

Mr. FRAZIER. I did not understand the Senator's question, and I do not think I can answer it.

Furthermore, our President himself, it seems to me, has set some precedents in irregularities that have been approved by the majority of this body.

Back in President Grant's time, I think, an appointee came up for the office, I believe, of Secretary of the Treasury, and his appointment was objected to on the ground that through his business relations he was ineligible to the position, and he was not seated as a member of the Cabinet. In the appointment of Hon. Andrew W. Mellon as Secretary of the Treasury it seems to me there is no question but that his business connections would have barred seating him as a member of the President's Cabinet, and yet he was confirmed and is still a member of the Cabinet. So these irregularities will creep in; and whether or not we should be so technical as to keep a man out of a seat in the Senate because of mere technicalities is a question that each Senator will have to decide for himself, of course.

I want to go briefly into the history of the appointment of Mr. NYE.

A few days after the death of my late colleague, Senator Ladd, the newspapers began the discussion as to whether there was a provision in the North Dakota law for the appointment of a successor. The governor was interviewed, and the papers quoted him as saying that he thought he had the authority to make a temporary appointment, and that at any rate he would not call a special election, because it would cost in the neighborhood of $200,000, and the taxpayers of North Dakota could not well afford to stand the expense.

The governor did not ask the opinion of the attorney general of our State, because the attorney general happens to be politically opposed to the governor; and the governor stated on one occasion, as I recall, that there was no need of asking the opinion of the attorney general, because he knew what his opinion would be and did not care to leave it. That question was raised here by the junior Senator from West Virginia [Mr. GOFF].

A little later in the summer an opinion appeared in the North Dakota papers purporting to come from the senior Senator from New Hampshire [Mr. MOSES], chairman of the Republican senatorial campaign committee. Of course, there was no politics in this opinion; but I understand that the governor never asked the Senator from New Hampshire or anyone else for a legal opinion as to his authority in this case.

I want to read a part of the opinion that purported to come from the Senator from New Hampshire. This is a clipping from a North Dakota paper of October 5, 1925. The headline is:

Governor without power to appoint Senator.

There is an editor's note at the head of this story, as follows:

The following opinion on the question of the authority of Gov. A. G. Sorlie to appoint a Member of the United States Senate to succeed the late Senator Ladd was formulated at the instance of Senator GEORGE H. MOSES, of New Hampshire, chairman of the Republican senatorial campaign committee, and has for some time been before Governor Sorlie. It was presented through Senator MOSES for the information and guidance of the governor in the question at issue.

Has the Governor of North Dakota authority to fill by appointment vacancies in the United States Senate?

STATEMENT OF THE CASE

He goes on to set forth the death of the late Senator Ladd, and then some of the laws of North Dakota. He refers to the amendment to the constitution of our State, also to the seventeenth amendment to the Constitution of the United States; but one thing that the Senator from New Hampshire overlooked, or those who helped him prepare this brief overlooked, was that the 1917 session of the Legislature of North Dakota reenacted a law which provided for the filling by the governor of all vacancies, with the single exception of members of the State legislature. The Senator from New Hampshire overlooked that entirely.

He refers in his opinion to the Glass case, and says:

There remains for consideration the contention that the Senate will seat an appointee of the Governor of North Dakota if said appointee is acceptable to the Republican majority. This is the sheerest nonsense.

If there ever was a time when the Senate could have been expected to act from political motives it was in the case of Frank P. Glass, of Alabama. Having failed in his case it can hardly be expected now.

Of course, that is very logical reasoning on the part of the Senator from New Hampshire, that there was no politics in the Glass case, when we had a Democratic President and Democratic control of the Senate, and therefore with a Republican President and a Republican Senate there can not be any politics entering into this case. But the other day the junior Senator from Alabama [Mr. HEFLIN] intimated that at least a little politics entered into the Glass case.

There is a headline in this paper reading:

Should not trifle with the liberties of the people.

Then this is the closing paragraph of the Senator from New Hampshire [Mr. MOSES]:

The Governor of North Dakota, according to law, is required to take an oath to support the Constitution of the United States and the constitution of North Dakota. For the reasons, and upon the grounds set forth herein, it is clear that he would violate the provisions of both constitutions if he were to assume to make a senatorial appointment. It is a serious thing to thwart the will of the people as expressed in their constitutions, and when the governor gives consideration to this important matter, it is hoped and expected that he will decline to assert the right to appoint; and, obeying the mandate of the constitution, call a special election.

Mr. President, after this eminent legal advice had come to the governor so gratuitously, so authoritatively, and so free from political bias I think the governor was rather stumped for a time. But he still held religiously to his Republican policy of economy, so successfully championed by our President. He refused to call a special election, at least not before the next state-wide election. Early in November he did call a special election for June 30, 1926, which is the date of our next state-wide primary election.

Then some more legal advice was offered to the governor, this time by progressive attorneys, who took exception to Senator MOSES's interpretation of the Constitution. One opinion came from a former district judge of our State, another from the United States district attorney, and a few days after the governor set the date for the special election on June 30 he made a temporary appointment to fill the vacancy until the election next June.

This action of the governor, it seems to me, is in strict accord with the intention of the seventeenth amendment to the Constitution of the United States. The appointment is for the shortest time possible, and for the election on the regular election day, thus avoiding the expense of an extra election. The appointment was made less than a month before the convening of Congress and is to last only until June 30, the date of the first state-wide election.

Mr. President, the Governor of the State of North Dakota appointed Mr. NYE, and his credentials were presented here on the opening day of the session. Upon request of the Republican floor leader, I moved to refer these credentials to the Committee on Privileges and Elections.

In the meantime, I understand, some protest came in to some Members of the Senate against the seating of Mr. NYE. All of these protests came from the stalwart element of the Republican Party of North Dakota. Newspaper reports even claimed that the Republican State central committee had met and

adopted resolutions of protest and sent them in. This, however, was not true, as a majority of this Republican State central committee, legally chosen and duly qualified, are progressive Republicans and favor the seating of Mr. NYE. I am reliably informed that no call was made for this State committee and that no meeting was held.

A brief was submitted to the Committee on Privileges and Elections by the able junior Senator from West Virginia, a member of the committee, which—we were assured—would be *wholly* unbiased. However, the chairman was kind enough to ask Mr. NYE to have a brief submitted. Mr. NYE, not being financially able to hire legal ability, did enlist an able attorney, Congressman VOIGT, of Wisconsin. Mr. VOIGT prepared a brief and ably presented it before the committee, setting forth the North Dakota law as he saw it. This brief was read into the record on the first day of the hearing.

On the other hand, before that same committee and at the same hearing Congressman BURTNESS, of the first district of North Dakota, appeared with a brief against the seating of Mr. NYE, stating to the committee that he came before them reluctantly at the request of some people from North Dakota. I will admit that this did look a little strange that a Congressman would appear before the committee arguing against the seating of an appointee from his own State, that his own State might not have full representation in the Senate.

The newspapers of the city, in reporting this hearing, all carried the statement that Congressman BURTNESS was appearing at the request of the Republican State central committee of North Dakota. This was, of course, an erroneous statement by some one evidently for political purposes.

Mr. BURTNESS did suggest, however, that one of the eminent attorneys of North Dakota, who had carefully gone into the case, was Mr. Divet, of Fargo. I might say that Mr. Divet is the attorney—on an annual salary—for the Bankers' Association of North Dakota, so evidently the Bankers' Association of North Dakota is opposed to the seating of Mr. NYE.

Mr. President, I can not help but wonder, if the Governor of North Dakota had been known to be a "safe and sane" Republican, who would have appointed a Senator who would have been "safe and sane" for the Republican administration, whether our genial chairman of the Grand Old Party's senatorial campaign committee would have taken the trouble to journey from his home in old New Hampshire, up in the beautiful White Mountains of New England, out to the great western plains, and there to have conferred with a few prejudiced politicians, and then written an opinion telling the governor that he would violate his sacred oath of office if he made any appointment, and that there was no chance of an appointee being seated.

Mr. President, I can not help but wonder if the Governor of North Dakota had appointed a man who was known to be an ardent supporter of the administration; a man who, if seated, would have voted for the pet administration measures, the Mellon tax plan, reducing the taxes for the millionaire corporations; if he was known to be an advocate of the plan for the farmers to work out their own salvation through impossible cooperative movements, and opposed to any worth-while farm legislation which would be of real benefit to agriculture; in other words, I am wondering if Mr. NYE had been known to be a regular Republican if all these objections would have been raised to his being seated, and if it would have resulted in all this quibbling as to the technicalities of the North Dakota law.

I am wondering if the administration group of the Senate had the comparative numerical strength that the administration group at the opposite end of the Capitol has, if this case would not have been summarily disposed of as were the Progressive Members of Congress from Wisconsin and North Dakota recently disposed of by the administration group of the House.

I can not help but wonder, Mr. President, if this fight against Mr. NYE is not, to some extent at least, brought on by the fact that he is known to be a Progressive; known to oppose the Mellon plan of taxation; known to be a real representative of the farmers, and anxious to see something done besides giving them more credit and a higher duty for manufacturers, an increase in freight rates, and remitting taxes to multimillionaire corporations.

I am wondering if the present desperate straits of the farmers of the Nation have not something to do with this case. Even in the face of the administration reports that prosperity is at hand, the fact remains that the farmers, who produce the food products to feed the Nation, are not included in this prosperity.

I wish now to read an editorial which appeared in the morning Herald a few days ago, written by Mr. Brisbane. It is as follows:

One sad note rings from the White House. The President worries about the farmers' attitude. When all the world is bright, farmers persist in their unhappy attitude. Senator CAPPER, who knows farmers, says they might think as they vote, or even vote as they think—serious threat for a Republican Senator.

The President has talked to them. Our "best minds" have assured them that they are all right as long as railroads are paying dividends regularly, but as the door mouse said of his watch after he had put the best butter inside of it, "Nothing seems to please them."

You might ask why the farmer gets only 3 cents for milk that costs the consumer 15 to 25 cents. Or why the Government allowed everybody else to raise his prices in war, but compelled farmers to hold down the price of wheat—in their one chance to make a killing.

But such questions are included in the word "Bolshevism," and do not become any 100 per cent American questioner.

The Republican problem is how to help the farmer and make him happy without really doing anything for him. A hard problem.

It's so simple with railroads. When they need money, a Government commission raises rates, the people pay, and everyone is happy.

Mr. President, even Secretary Mellon said that 1925 was a prosperous year. It has been suggested by some that it has been rather prosperous inasmuch as the Secretary of the Treasury had rebated, according to the best figures we can get, some $450,000—in cold cash in tax rebates to one of his own companies. That would be quite prosperous for himself at least. During the latter part of 1925 the House passed a tax reduction bill which, if it goes through the Senate, will reduce the taxes of Mr. Mellon about $1,000,000, some more prosperity in 1925 for Mr. Mellon. It is suggested that this $450,000 rebate in the taxes to Mr. Mellon, if divided up, would mean about $1,500 in cash for himself for each working day of the year. According to statistics from our agricultural experts it would be about an average of the total income for three farm families for a year that Mr. Mellon had rebated to himself for each day of the year. Prosperity? Yes; but not to the farmers.

I could quote from agricultural statistics here to show that the farmers are not prosperous, but I shall not attempt to do so. I do wish to call attention to a statement made on the floor of the Senate a few days ago by the junior Senator from Nebraska [Mr. HOWELL], comparing the 1925 crop with the 1924 crop, and the 1925 prices with the 1924 prices on wheat, corn, and oats in South Dakota, Iowa, Kansas, and Nebraska, to the effect that an aggregate decrease in the price to the farmers in those four States was estimated to be $486,600,000.

I also want to call attention to a statement made by the senior Senator from Illinois [Mr. MCKINLEY] about a week ago, when he said:

> Notwithstanding the rosy, reassuring statements put out by the eastern bankers, there is no doubt that a crisis exists among western and central western farmers.

To sum it all up the farmers' situation is desperate and Members of the Senate who are at all posted on the condition of the farmers realize that something ought to be done for these producers of food products. We know that only recently our eminent President journeyed to Chicago to speak to one of the great farm organizations; that his speech was apparently not well received, and that before the convention closed a president of that organization was chosen who was known to oppose openly the President's so-called agricultural program.

Since then a great agricultural conference has been held in Iowa called by the bankers' association. Think of it—an agricultural conference called by the bankers' association. The farmers were invited, but I understand that not many attended. Why? Because the farmers of the great agricultural State of Iowa have lost confidence in their bankers—a desperate situation.

Mr. President, North Dakota is only one of those great agricultural States that have been hit so hard by the conditions that have existed during the past five years. That great agricultural State, composed largely of farmers, is entitled to full representation in this body.

I have a letter just received from a committee of farmers from a county in North Dakota which I wish to read to the Senate. It is as follows:

COOPERSTOWN, N. DAK.,
December 29, 1925.

Senator LYNN J. FRAZIER,
Washington, D. C.

DEAR SENATOR: As a committee selected by a large meeting of farmers to-day we beg to advise that there is being forwarded to your address a piece of furniture which we wish to have presented to Senator NYE.

It is a milking stool, and we have decided to supply it that Mr. NYE may have a seat in the Senate. If those who do not understand

our interests in the Northwest will not provide our Senator with a seat, we will, temporarily at least, and next summer we will provide him with credentials that can not be questioned even by quibbling technicality hunters in the Senate.

CHAS. YOUNG,
GEO. E. BROSTRUP,
C. C. SIMONSON.

Mr. President, I believe that the sentiment expressed in the letter just read is the sentiment of the big majority not only of the farmers but of the people at large in the State of North Dakota.

I believe our law is broad enough to authorize the governor to make the appointment in question. I know that this case is being closely watched not only by the Progressives of North Dakota but by the Progressives in farming populations all over the great agricultural States of the Union.

In conclusion, I should like to submit a few questions which I contend the Senate must determine in its decision in this case.

Can the Senate blind itself to that provision of the State constitution, the basic law of North Dakota, granting to the governor the power to appoint in the emergency which now exists because of the death of the late Senator Ladd?

Will the Senate, as did one Senator in advising the governor against making an appointment, ignore the reenactment of the North Dakota vacancy statute in 1917 following the adoption of the seventeenth amendment, which statute provides in strong and unequivocal language for the filling of all vacancies not otherwise provided for by statute?

Will the Senate refuse North Dakota its full representation here in the face of that clearly written feature of our Federal Constitution which declares that no State shall be deprived of equal suffrage in the Senate without its consent?

Not only has the governor in making the appointment complied with the State constitution and the statutes of the State, but he has complied explicitly with the spirit of the seventeenth amendment to the Federal Constitution. He has called for a special election to be held June 30 in conjunction with the first state-wide election. He thus saves the taxpayers of the State of North Dakota an added tax burden of approximately $200,000. In North Dakota this saving is a material one. Then to provide the representation in this session of the Senate as recommended by the people of the State he has made a temporary appointment. Is it possible that the Senate will disregard these facts in its consideration of this case?

Will the Senate give no heed to the long-established policy of North Dakota in giving to its executive wide and liberal appointive powers in the event of vacancies?

Will the Senate leave North Dakota with only half representation in this session of the Senate, which is to consider and act upon so many matters of vital importance to the people of that State?

Is there some powerful, unseen influence that can blind the majority of the Senators of this body against these very plain truths?

Mr. President, I may say that in the discussion of the technicalities it seems to me that common sense and justice should enter. It seems to me that the State of North Dakota is entitled, as are other States, to full representation here, and that, judging from the attitude of the Governor of North Dakota, unless Mr. NYE is seated we will not have a full representation until after the 30th of next June, which is the date for which the special election has been called.

Mr. President, out of respect to the memory of the late Senator Ladd, whose life work was given for the betterment of conditions of the common people of his State and of the Nation, I want to urge that this appointee be seated, in order that the late Senator Ladd's great work may continue.

Few men in my State have ever held the high esteem and respect of the people as did the late Senator whose seat is now vacant.

Mr. President, this case should be decided without a reasonable doubt. If Senators are satisfied in their own minds that the governor had the right to make the appointment, then, of course, it is their duty to vote for the seating of Mr. NYE. If there is a doubt in the mind of any Senator as to the Governor of North Dakota having the authority to make the appointment under the law, I wish to urge that the benefit of the doubt be given to the State, in order that we may have our constitutional right of equal suffrage in the United States Senate.

During the delivery of Mr. FRAZIER'S speech,

Mr. CURTIS. Mr. President, will the Senator yield to me to submit a unanimous-consent request?

Mr. FRAZIER. Certainly.

Mr. CURTIS. I make the request which I send to the desk.

The VICE PRESIDENT. The clerk will read.

The Chief Clerk read as follows:

Ordered, by unanimous consent, That on the calendar day of Tuesday, January 12, 1926, at 3.30 o'clock p. m., the Senate will proceed to vote without further debate upon any amendment that may be pending, any amendment that may be offered, and upon the resolution, Senate Resolution 104, declaring GERALD P. NYE not entitled to a seat in the United States Senate, etc., through the regular parliamentary stages to its final disposition; that after the Senate finishes its business to-day the Senate will take a recess until 12 o'clock meridian to-morrow, and that no Senator shall speak more than once or longer than 30 minutes upon the resolution except by unanimous consent.

Mr. ROBINSON of Arkansas. Mr. President, I understand the Senator who made the objection before has withdrawn his objection.

Mr. CURTIS. So I understand.

The VICE PRESIDENT. Is there objection to the unanimous-consent request?

Mr. BLEASE. Mr. President, when the unanimous-consent request was first presented I was not in the Chamber. Since I have had an opportunity to confer with Senators on both sides in regard to the matter, I find that there is no disposition to cut anybody off who desires to debate, which was my understanding of the matter in the beginning. Since learning the real purpose of the request I do not object to it.

I desire to state now that in withdrawing my objection I am setting no precedent, because whenever I believe that there is an effort on any occasion to deprive any Senator of an opportunity to speak I shall fight it.

Mr. DILL. Mr. President, I raised the question about the limitation to 15 minutes, and I am very much inclined to raise the question about the limitation of 30 minutes. I rather resent the attitude of certain Senators who seem to assume that other Senators have not a right to speak on this question, which is a question of the highest privilege, affecting everyone in the Senate. I think it is a question of all questions on which Senators should be permitted to state their views. It is not an ordinary question; it is an extraordinary question. There was a proposition submitted to limit debate to 15 minutes, and then the limit was raised to 30 minutes. I do not know whether there will be time enough for those who want to discuss the matter for 30 minutes to-morrow. I do not know that I shall want to talk even 10 minutes, but if I am asked questions and take the time to answer them, I do not want to have to watch the clock.

Mr. CURTIS. Of course, the Senator realizes that by unanimous consent he can talk longer than 30 minutes. I do not believe we shall take up all the time. One Senator has assured me that he will not take over 10 minutes. The Senator now occupying the floor will finish to-night, and there will be only four to speak to-morrow. The limit was raised to 30 minutes at the suggestion of the Senator from Washington, and I hope he will not object.

Mr. DILL. Yes; the request was changed at my suggestion, but there is an implication here that I am making unnecessary difficulty about it, and I claim the right to talk on this subject, as well as anybody else. I am going to object at this time.

The VICE PRESIDENT. Objection is made.

Mr. CURTIS. I give notice again that I shall ask Senators to stay here as long as possible this evening, that we may get through with this debate.

Mr. UNDERWOOD. Mr. President, will the Senator from North Dakota yield to me to make a request?

Mr. FRAZIER. Certainly.

Mr. UNDERWOOD. I live 17 miles out in the country and want to leave the Chamber at this time. Before I go I desire to submit a report from a committee with reference to a nomination. If the Senate will allow me as in executive session by unanimous consent to make the report, I would appreciate it very much.

Mr. CURTIS. It is just to go to the calendar?

Mr. UNDERWOOD. Just to go to the calendar.

Mr. CURTIS. Very well.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Senator from Alabama will send the report to the desk.

Mr. UNDERWOOD. I ask that the nomination which I send to the desk may go to the calendar as in executive session.

The VICE PRESIDENT. Without objection, it is so ordered.

After the conclusion of Mr. FRAZIER'S speech,

Mr. COPELAND. Mr. President, may I inquire if it is the purpose of the Senator from Kansas to keep the Senate in session any later this evening?

Mr. CURTIS. Yes; just as long as I can.

Mr. COPELAND. That being the case, I will proceed.

Mr. President, if the rules of strict legal construction are to be applied to this case, I have no doubt that Mr. NYE will not be given a seat in the Senate.

As I view it, the seventeenth amendment to the Constitution makes it obligatory upon the legislature of each State to amend its law and to make provision for the temporary filling of any vacancy which may occur in that particular State in the office of United States Senator.

In the debate as it has proceeded during the past several days, repeated reference has been made to the constitution of North Dakota. That is a constitution adopted a long time before the change in the Federal Constitution, and yet is a constitution which provides in certain emergencies for the filling of vacancies on the part of the governor.

But those of us who recall the discussion which took place not alone in the Congress of the United States but all over the country, in every State and village and hamlet, in every theater, public hall, town hall, and schoolhouse, remember how insistent the people were that there should be a change in the method of choosing United States Senators, and that the great scandals which had come upon many States by the use of great sums of money in the debauchery of legislatures should cease. The people demanded that senatorial elections should be by the voters directly and that Senators should not be chosen by the indirect method of election by the legislatures.

The debates which took place in Congress during the consideration of that proposed amendment are very instructive. I have taken pains to read them, and it is interesting to observe how history repeats itself. Almost every question which we have heard argued here in the past week or two about whether a Senator is or is not a State officer and all the other collateral questions involved in the election of United States Senators were debated in the Congress and considered at the time.

As I see it, it is perfectly plain it was not sufficient for the State of North Dakota to have a constitution which provided that under certain circumstances the governor might fill a vacancy in that State's representation in the Senate. The adoption of the seventeenth amendment to the Constituion placed a new duty upon the legislature—the obligation to provide a means for the selection of a person to fill a vacancy in the United States Senate, provided, of course, the people of the State wanted the vacancy to be filled. So I think we must conclude that Mr. NYE can not be seated upon the strength of the provision in the constitution of North Dakota, section 78. We can not expect to seat Mr. NYE on the strength of that particular section of the North Dakota constitution, because it goes so far back of the amendment to the Constitution of the United States that by no stretch of the imagination, as I see it, can it be made to apply to the appointment of Mr. NYE. There must be found some statutory provision; there must be found evidence that the Legislature of the State of North Dakota did actually, in the face of the amendment to the Constitution of the United States, amend its statutes so as to provide for the temporary filling of the vacancy in question.

In the compilation of the laws of North Dakota for 1913 there is found a law which has been constantly referred to in the debates. This law was passed by the Legislature of North Dakota giving power to the governor to fill vacancies in State offices. Of course, the passage of the law in 1913 would not cover this case, because the passage of the law in 1913 was at a time previous to the adoption of the seventeenth amendment to the Constitution of the United States.

As I understand it, the Legislature of North Dakota meets every two years. It had adjourned in 1913 before any opportunity was had to pass an enabling act. In 1915 the session laws were silent upon the subject, but in 1917 the act which had been in the laws of North Dakota from the time it was a Territory, which provided for the filling of vacancies, was amended and reenacted. There are certain very interesting things involved as I see it in the reenactment of that law.

I have been much impressed by what the chairman of the subcommittee of the Committee on Privileges and Elections, the distinguished Senator from West Virginia [Mr. GOFF], said in his original presentation. Since then I have been enlightened by what my colleague, the distinguished Senator from Maryland [Mr. BRUCE], has said about statutory construction. I have also been enlightened by what the new and able Senator from New Mexico [Mr. BRATTON] has said regarding the effect of the reenactment of a law. I may say to my brethren that I have also read what Sutherland has written in his work on Statutory Construction.

In consequence, I realize that under the general rule of statutory construction the reenactment of a statute has, in effect, no control whatever upon events except to continue the action of the law as it previously existed. But I am wondering, Mr. President, if there are no exceptions to this rule. Doctors sometimes change their minds; I assume that lawyers rarely do; but courts sometimes reverse themselves.

I can see how unwise it would be, in general, to have any other construction placed upon a reenactment than that it is simply to give continuity to the law in general; but here is a statute which was passed after the acceptance and ratification of the seventeenth amendment to the Constitution of the United States. Here is an act which it seems to me would give any person so inclined ample excuse to say that it complied with the requirements of the seventeenth amendment to the Constitution of the United States.

The Senate is the sole judge of the qualifications of its Members. The Senate can determine for itself, upon reasonable evidence presented to it, whether or not Mr. NYE can take his seat in this body.

It is a very serious thing, indeed, my colleagues, to deprive any State of its constitutional right to full representation. That question has been debated very ably here to-day. It was debated when the seventeenth amendment to the Constitution was pending before the Senate in 1911, and I wish to read two short paragraphs from the address of Senator Sutherland, then United States Senator from Utah and now a member of the United States Supreme Court. I may say that there had been a long-running debate, participated in by my illustrious predecessor, Senator Root, of New York; by Senator Bristow, by Senator BORAH, and by Senator Williams, of Mississippi, and in the course of his reply to these various speeches Senator Sutherland said:

> It has been suggested that if we shall adopt this amendment and provide for the election of United States Senators by a direct vote of the people it will next be proposed to destroy the equal representation which the States of the Union now enjoy in the Senate, and that we shall have a proposition, which ultimately will be adopted, that will provide for the same measure of representation that prevails in the other House, and that Senators will be elected in proportion to population, and there will not be, as now, an equal representation from each State.
>
> I do not well see how that can be brought about under that clause of the Constitution which provides that no State shall be deprived of its equal representation in this body without its own consent. I know it has been suggested that even that might be amended, but—

And I want to call the attention of Senators especially to this statement—

> but to destroy that provision would not be a change of the Constitution by the orderly processes of constitutional amendment. It would be equivalent to a revolution. That is the one thing which the people who framed this Constitution stipulated among themselves should never be altered so long as one State in the Union objected to it. I am not at all afraid that any serious attempt will ever be made to bring about that result.

Senator Sutherland spoke about the denial of equal representation in the Senate as equivalent to a revolution. I think it would be a very serious matter if we were to deprive the State of North Dakota of its equal representation in this body. That is true always of any State; but if I am rightly advised, there never was a time in the history of North Dakota when it needed equal representation more than it does to-day. If I am rightly advised, Mr. President—without seeking at all to place responsibility for the condition—many of the farmers of that State are in bankruptcy, hundreds of banks have failed, and bank failures are taking place every week.

There must be fundamental, Federal, national reasons for a condition which can operate in that way in the State of North Dakota and other States of the Northwest. If at any time in the history of North Dakota it was entitled to equal representation, it is now; and I say, Senators, that, in view of the situation, not for any light reason must a seat be denied to Mr. NYE.

As I said, I listened with the greatest interest to the illuminating presentation of his report by the Senator from West Virginia [Mr. GOFF]. In response to the questions I asked him, as in response to questions that other Members of the Senate asked him, he said:

> Yes; of course the intent of the legislature when it passed any law must be considered in its interpretation, and the intent of the Legislature of North Dakota in the session of 1917 must be considered in interpreting what was meant by the statute amended and reenacted in that particular year.

The weakness of the position of the committee as I see it, Mr. President, is the fact that to all appearances, at least, the committee decided the question of intent by the internal evidence, by the evidence of the record alone, largely, as I see it, by the evidence of the act itself. There were some references

made to the journal of the legislature, but so far as I am concerned I was not satisfied that the committee gave full consideration to the intent of the legislature in 1917 in the reenactment of this law.

I desire to ask the Senator from West Virginia a question, if he will permit me to do so.

I notice in the session laws of 1917 that Mr. Lindstrom—I think Senator Lindstrom of that State—fathered this bill. I do not know Mr. Lindstrom; I am not advised as to whether he is still alive or not, but I should like to ask the Senator from West Virginia if any attempt was made to determine from Mr. Lindstrom or from other men who were actually in that session of the legislature what was the intent of the legislature as regards this particular measure?

Mr. GOFF. Mr. President——

The PRESIDING OFFICER (Mr. HEFLIN in the chair). Does the Senator from New York yield to the Senator from West Virginia?

Mr. COPELAND. I do.

Mr. GOFF. I will say to the Senator from New York, in answer to his question, that no specific correspondence took place between the committee and Senator Lindstrom; that there was no suggestion that such correspondence should be initiated; that the general attitude of the Legislature of North Dakota at that time was stated in the presence of the committee and argued in the presence of the Senator from North Dakota [Mr. FRAZIER], now in this body and at that time the Governor of North Dakota; that there was no intent present in the mind of anyone that the reenactment of the act of 1913 was for any purpose other than the purpose of giving the Governor of North Dakota the authority to consent to the reappointment by members of the county commissioners of State's attorneys when they had been removed from office. The Senator from North Dakota [Mr. FRAZIER] was of the same view.

I will add, furthermore, that I do not think the purpose or the intent of any legislative enactment, after it has been formally passed and enacted by the legislature of any State, can be aided or abetted or changed or modified by the opinion or the view of any legislator who was a member of the body that passed the act. The act speaks for itself; and when it has passed from the legislative assembly through the hands of the governor, who approves it, it then must take its place in the realm of constructive and constitutional law; and not only would it have been unnecessary, but I will say to my distinguished friend from New York that in my opinion it would have been improper to take the views of the different members of that assembly as an aid to what they meant in the use of the English language.

Mr. COPELAND. Mr. President, I thank the Senator. He has made the reply which I expected to receive, and exactly the sort of reply I would make if I were in his position. If you are judging what is meant by a passage in the Scriptures, there is no way to judge it except by the internal evidence. Of course, if by any chance there should be archeological discoveries made that had some bearing upon it they might be considered. That is because these events happened so long ago.

From 1917 to 1926, however, is but nine years. Men are yet alive, Mr. President, a cloud of witnesses could be found to give evidence as to what the legislature intended. When men judge things wholly by the internal evidence they are bound to have individual opinions, of course.

As I view it, without having before me the evidence of men now alive who know, in view of the fact that the seventeenth amendment to the Constitution required this action, and this was the first time the subject was brought before the Legislature of North Dakota after the passage of that amendment, I can readily believe that the Legislature of North Dakota had full knowledge of the amendment, and that it intended by the reenactment and amendment of the old law to include the office of a United States Senator.

It would have been much better, of course, if other language had been used, and if a direct reference had been made to the United States senatorship; but, while I do not know anything about the Legislature of North Dakota, I assume that it is not made up of lawyers so distinguished as my friend from West Virginia. A lot of us get into legislative bodies who do not know any too much about law, Mr. President. We do not know all about the technicalities of statutory construction.

When a layman is on the witness stand and is sworn to tell the truth, the whole truth, and nothing but the truth, it is difficult for him to get into his head that his answers must be responsive and must not wander at all from the leading strings of the attorney in charge of the case. I can readily understand how the men in the Legislature of North Dakota, ignorant of these things relating to statutory construction, thought that the language which had done so well for other State offices or for State officers, would be quite sufficient to cover the United States senatorship.

I do not, however, agree with the Senator from West Virginia that this case should be settled upon the written record alone. If there are men now alive who know what the intent of the Legislature of North Dakota was in 1917, I contend in all seriousness, Mr. President, that the committee should ask that this matter be recommitted, in order that they may find out the truth regarding it.

The distinguished Senator from Maryland [Mr. BRUCE] this morning—I did not have the pleasure of hearing all of his address, having been detained in a committee hearing—called attention to the fact that all but two, I think he said, of the States of the Union had passed enabling acts, and I assume North Dakota was one of the two.

Mr. GOFF. Forty-one States.

Mr. COPELAND. Well, all but two of those that had the matter before them.

Mr. GOFF. Kansas was the other one.

Mr. COPELAND. Kansas and North Dakota. That argument, presented by the Senator from Maryland, means this to me: It means that if 46 States of this Union have given consideration to the question of passing an enabling act, in all human probability North Dakota gave consideration to that, too, and that the Legislature of North Dakota, when it passed the act of 1917, thought it was including the office of United States Senator.

If the Legislature of North Dakota were in session, or if this were the year of their biennial session, I should be inclined to pass the case back to them and ask them to pass this enabling act in language which could be understood by he who runs or by a United States Senator.

Mr. GOFF. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from West Virginia?

Mr. COPELAND. I yield to the Senator.

Mr. GOFF. Why could not the Legislature of North Dakota be specially convened to pass the act to which the Senator from New York refers?

Mr. COPELAND. Mr. President, I did not read the publicity reports of the income tax as it relates to West Virginia; but, without knowing anything about it except this question, I am convinced that the Senator from West Virginia pays a very liberal income tax. The reason why there can not be a meeting of the Legislature of North Dakota is, if I am rightly advised—the reason why the Governor of North Dakota did not call a special election—is because of the poverty of the State.

Mr. GOFF. Mr. President, if the Senator will again yield——

The VICE PRESIDENT. Does the Senator from New York further yield to the Senator from West Virginia?

Mr. COPELAND. I do.

Mr. GOFF. I would suggest to my distinguished friend that he knows full well that expediency never can take the place of principle, and especially in any constitutional discussion or construction.

Mr. COPELAND. I agree fully.

Mr. HEFLIN. Mr. President, if the Senator from New York will permit me right there——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Alabama?

Mr. COPELAND. I do.

Mr. HEFLIN. Where there is a question of doubt, such as Senators are bound to admit exists here, would it not be well and very humane for Senators to take into consideration the fact that a State is almost in a bankrupt condition, and let that influence them somewhat in rendering a verdict in a matter which involves the representation of a State in the Senate under the Constitution of the United States?

Mr. COPELAND. I thank the Senator. May I say to my distinguished friend from West Virginia that I should consider it most immoral for any legislative body, especially the dignified Senate—and as I look at the Vice President I am reminded he thinks we are sometimes not very dignified—I would think it immoral for the Senate to do a wrong thing for the sake of expediency. But I do not think we have to resort to so low a motive as expediency in doing this thing. For my part, I believe that the Legislature of North Dakota intended, by the act of 1917, to enable its governor to fill a vacancy in this office. I think it is a matter of law and not expediency, and that we have ample reason for placing such an interpretation upon the act of 1917 as would legalize the seating of Mr. NYE.

There has been raised in the Senate a very serious reflection upon the legality of the seating of certain Senators. I have not been able to understand why the question was not raised long

ago as regards our colleague the Senator from Massachusetts [Mr. BUTLER]. I believe that the Legislature of Massachusetts went far afield when it provided its enabling act to permit the filling of a vacancy, as took place in the appointment of Mr. BUTLER. It was clearly the intention of the people of the United States in adopting the seventeenth amendment that Senators are to be elected, and under the spirit and letter of the seventeenth amendment only a temporary appointment can be made. If it is legal for Mr. BUTLER to hold his office in this body, and if Senators take the view that it is legal, I can not for the life of me see why any man should consider that the seating of Mr. NYE would be considered a matter of expediency and not of law.

When section 696 of the Compiled Laws of North Dakota, 1913, was amended and reenacted in 1917, I can not understand why it was, if the legislature had in mind simply the changing of the first section—was it the first section?

Mr. GOFF. The first section of the law passed in 1913 became the fourth section of that passed in 1917.

Mr. COPELAND. Mr. President, if the Legislature of North Dakota had intended merely to amend what has now become subdivision 1 of chapter 696, if the Legislature of North Dakota had intended to do nothing except to amend that one small section, the natural course would have been for them to say in the preamble of the measure that it was the intent to amend that particular subdivision. But that is not what happened. I am confident in my own mind that it was done as it was because the legislature had before it the knowledge of the adoption of the seventeenth amendment to the Constitution of the United States and had the intent to include in this act the power on the part of the governor to fill a vacancy in the office of United States Senator.

I do not wish to leave this, however, until I say again that I do not believe the committee has performed its full function, in that it has failed to find out from living men, as it could have done, what actually was the intent of the legislature in amending and reenacting chapter 696.

The State of North Dakota has a constitutional right to be represented in this body by two Senators. By the rules of strict construction, by what some of my colleagues have called technicalities, an effort is made to deprive the State of equal representation. When we reflect how lightly many persons in this country regard the Congress of the United States, we should never seek to take any action which would bring grief and criticism and ill feeling to the hearts of our people if there is any reasonable way by which we may avoid the unkind action. I can see no reason in the world why the Senate of the United States might not accept the enabling act in the language found in this act of 1917 as ample legal authority for the seating of Mr. NYE.

I believe this discussion has made it apparent that there should be a review of its enabling act on the part of every legislature in the United States. I think it would be well for every State to reexamine its law, to see if proper provision has been made for the filling of a vacancy in the office of United States Senator.

It was intended, by the adoption of the seventeenth amendment, that the people should have the right to choose their Senators. The Governor of the State of North Dakota has made provision that when the roads break up in the spring there shall be an election.

I heard it suggested by my colleague from South Carolina that if anybody is to blame in this matter, it is the governor, that he should have called a special session of the legislature. I do not want the people of North Dakota to suffer because the governor made a mistake, and it is not necessary that they should. We have, in this act of 1917, passed four years after the adoption of the seventeenth amendment to the Federal Constitution, ample, sensible, and, in my judgment, legal reason for the seating of Mr. NYE, and I hope that the Senate will not deny to North Dakota, in the time of her stress and trial, at a time when she wants assistance from the Federal Government in the way of legislation, at least some participation in the framing of that legislation.

In the name of the people of North Dakota, in the name of the people in my State who are interested in this question, and watching to see what we do, I beg Senators to vote to seat Mr. NYE, when they come to vote to-morrow, so that the State of North Dakota may have equal representation in this body.

RECESS

Mr. CURTIS. I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and the Senate (at 6 o'clock p. m.) took a recess until to-morrow, Tuesday, January 12, 1926, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

MONDAY, *January 11, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, for the birth of this new day we bless Thee; for every hope and prospect that makes us happy we give Thee thanks. In Thee we have our rest and security. Thy loving Providence is a daily miracle. May it never be overlooked or undervalued. Fill our lives with mighty meaning. Give them the vision of the unattained and a pulsing passion to realize it. May the law of truth be native to the very depths of our beings. Keep in our minds this day the counsels of the Lord. May the sweetness of Thy love, the sense of Thy mercy, and the joy of Thy presence fill all our homes. Amen.

The Journal of the proceedings of Saturday, January 9, 1926, was read and approved.

INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. CRAMTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Interior Department appropriation bill, H. R. 6707.

Mr. BLANTON. Mr. Speaker, may I ask the gentleman a question?

Mr. CRAMTON. I yield for a question.

Mr. BLANTON. I want to ask the gentleman this: To-day is District day. I know the gentleman has a right to ask for recognition if he claims it, and I know the Chair has a right to recognize him in preference to the gentleman from Maryland, because the two bills have equal privilege here in the House.

Mr. CRAMTON. I am not prepared to admit that——

Mr. BLANTON. That is the fact, because this is District day, and it is simply a question of recognition.

Mr. CRAMTON. That is the gentleman's statement, not mine.

Mr. BLANTON. On a forced vote the House could decide which bill it would take up. To-day is District day. There are two bills reported by the District Committee on the calendar, and it will not take an hour to dispose of both of them. The gentleman from Connecticut [Mr. TILSON] has given out, both to members of the District Committee and to Washington people, that he was going to give this day to the District and let the District finish its business.

Mr. TILSON. If the gentleman will only possess his soul in patience, we are only trying to get this bill out of the way, so that the District Committee may have its day.

Mr. CRAMTON. Of course, if the gentleman is going to filibuster against——

Mr. BLANTON. I have no intention of filibustering. I want to say this to the gentleman from Michigan. If he will only let the District have its day, we will consume but very little time. I think it would just take not over 30 minutes to the side, as there is only one bill that is controversial.

Mr. CRAMTON. If the gentleman from Texas will permit. This bill, the gentleman knows, is a very important measure. It has been before the House for a long time——

Mr. BLANTON. If the gentleman——

Mr. CRAMTON. If the gentleman will permit, we expect that we can complete this bill in an hour or less, and there is no reason why we should take more time, and then there will be abundance of time after that for District business. Therefore it seems the orderly way is to complete the bill that is before the House.

Mr. BLANTON. Let me ask the gentleman this question. Will the gentleman yield?

Mr. CRAMTON. Yes; but I hope the gentleman will not make any long argument.

Mr. BLANTON. I want to ask the gentleman this: Does not the gentleman know that there are some items in this Interior appropriation bill yet to come that are quite controversial; items upon which there is going to be points of order and upon which there is going to be argument that may be extended?

Mr. CRAMTON. That is a situation of which I was not aware before.

Mr. BLANTON. The gentleman may just as well notice now that there are certain items in his bill such as I have mentioned. Why not let us come in here and have 30 minutes to the side in which to dispose of the District business? Otherwise we will lose District day. I know that we are not going to finish the consideration of this Interior Department

appropriation bill in a short time because there are items in it which need discussion.

Mr. CRAMTON. Mr. Speaker, I make the motion.

Mr. BLANTON. I appeal to the gentleman from Connecticut to keep faith with the House and make good the assurance he gave us.

Mr. TILSON. The gentleman from Connecticut will try to see to it that the District Committee shall have plenty of time in which to consider its business to-day. That will save that much time for the gentleman.

Mr. BLANTON. That assurance is satisfactory.

EXTENSION OF REMARKS

Mr. LINTHICUM. Mr. Speaker, I ask leave to extend my remarks in the RECORD by printing a statement by Governor Ritchie, of Maryland, on Friday evening last.

The SPEAKER. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD by printing a statement by Governor Ritchie, of Maryland. Is there objection?

Mr. UNDERHILL. Mr. Speaker, I hate to be the goat, but it seems to me the House has started along the line of printing speeches of gentlemen outside of the membership of the House in the RECORD. No matter how valuable they may be to a local constituency, perhaps, they do not have national significance, and I feel that if we are going to stop this thing we should stop it right now. Consequently I feel that I shall have to object.

AGRICULTURAL FUNDAMENTALISM

Mr. LOWREY. Mr. Speaker, I ask unanimous consent to extend my own remarks on the present bill.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to extend his own remarks on the present bill. Is there objection?

There was no objection.

Mr. LOWREY. Mr. Speaker, when we come to the Interior Department bill I always have grave doubts about the two largest items in it, Indian affairs and reclamation. I know that the Indians are wards of the Nation. We owe them some obligations and are bound to them by treaties as well as by ties of humanity. I want to show them both justice and kindness. Yet, I am right sure we are adopting some policies which cost the Government heavily and which tend to make these people paupers and dependents instead of self-reliant and useful citizens.

Again, I doubt if any activity of our Government affords more opportunity for waste and graft and gives more jobs to needless employees. As once said by the gentleman from Pennsylvania [Mr. KELLY] it is a waste of both money and manhood.

In our reclamation policy I agree with the gentleman from Alabama [Mr. BANKHEAD]. If we are to continue the policy it ought to be nationalized and not applied to the West only. There are many thousands of acres in the South which can be reclaimed by drainage and flood control for less money than irrigation costs, and when reclaimed they are more fertile, closer to the markets, and less costly to cultivate than many of the western lands.

Yet just now I question whether Congress should appropriate money to reclaim farm lands anywhere, except in so far as necessary to avert actual loss on projects already begun.

We already have thousands of farms that are being turned back and deserted because of lack of labor to cultivate them, or because farming has become so unremunerative and unattractive that families are deserting our once happy rural homes and flocking to the factories, the mines, and the commercial centers. Our problem now is to maintain and improve the farms we have, rather than to expend large sums and pile up taxes to develop new ones in the deserts and swamps. In 1921 more than 15,000 farmers went bankrupt in the United States. In 1922 twenty-two and a half thousand went bankrupt; in 1923 more than 34,000; in 1924 more than forty-one and a half thousand. This is a steady and alarming increase. From every section of the country comes the report that farms have not paid enough to cover taxes and upkeep and that products cost more for production than they bring in the markets.

Yet railroads were never more prosperous, factories are paying well, commerce is phenominally active, and banks in many places are reporting large profits and declaring large dividends. All prospering but agriculture. Everybody knows this to be a fact. Only here and there do we find an exception. But what is to be done about it?

Mr. Speaker, since I came to Congress I have heard more talk about doing something for the farmer than about any other subject that ever comes before this House, and I have seen less done. That is not because the Congress has not been earnestly desirous of doing something for him. Nine out of ten of the Members of this House know that the farmer needs to have something done for him, that he deserves to have something done for him, and that sooner or later he is going to have something done for him, because he is not going to put up always with conditions as they now are. Our country can not permanently exist with agriculture languishing and everything else fattening.

Everybody knows that farming is the one great American industry that is not on a paying basis. It is the fundamental industry. For a hundred years and more it has supported our other industries. The farmer has paid a tariff tax on everything he has bought—on his shoes and his implements and the materials that have gone into his children's schoolbooks—and the men who manufactured these things behind their protective-tariff wall have waxed rich. For a long time the farmer was able to stand up under the burden. He had boundless lands of great fertility and the world for his market, and such labor as he had to employ was plentiful and cheap.

But now that is all changed. The lands are no longer new and their fertility has come to where it must be maintained by artificial means. Frontier lands are being developed in other countries—in Canada, South America, India, Australia, and Africa. Products from these lands are competing with American products on the world market, and because they can be grown more cheaply are gradually crowding American products out. Labor is becoming scarce and in its effort to better its own condition is demanding higher and higher wages.

As a plain matter of fact, staple farming in this country can not be made to pay year in and year out. Our farming people who are heroic enough to stay with the farms instead of flocking to the cities are going into debt two or three years to where they come out one. There are individual exceptions here and there of men who are more fortunately located or luckier in getting their stuff on the market at the right time or keener in their deals. But these men are the exception and not the rule, and conditions which make it possible for only the exceptional man to succeed are not fair conditions. The American ideal is to have conditions where the average man can succeed.

The endless game here in Washington is to tinker. We tinker with rates, we tinker with cooperative marketing, we tinker with diversification, we tinker with additional and easier credits, we tinker with crop reports.

Mr. Chairman, tinkering never permanently cured anything. All it ever does is to patch up and help the farmer over another season, so he can go further in debt and help us politicians over campaigns so we can come back to Congress. If we want to cure the evil, we have got to do more than tinker. Better marketing will help greatly. Yoakum is right, and I am for a bill to promote his plan.

But the only way to help the farmer permanently and effectively is to give him an equal chance with the other fellow. The other fellow is behind a tariff wall, by reason of which he gets a bonus from the Government every time he manufactures an article and sells it. Now, it is impossible to put the farmer behind a tariff wall that will give him the same sort of protection, because the farmer sells about half of his cotton and a very considerable portion of his grain and meat in other countries.

He has to. We can not use anything like all he produces in this country. The result is that the price men pay on the cotton market in Liverpool, England, this morning has a direct effect on the price my friend, John Fuller, gets for his cotton down in my home town in Mississippi this afternoon. And the same is true of Ole Neilsen and his wheat somewhere in Iowa or Nebraska.

There are only two ways in which the American farmer can be given the same protection we have been giving the manufacturer for all these years. One is for the Government to buy all his surplus produce and sell it abroad for what it will bring and stand the loss. That is what some of our Republican friends from the Northwest are proposing. It sounds like socialism or sovietism, or whatever else you want to call it. It is putting the Government in business. It is contrary to all our so-called American principles. But it is not a bit more contrary to them than is the protective tariff. If we are going to take money out of the pocket of the farmer and give it to the manufacturer to make him rich, by means of a tariff, why not take money out of the pocket of the manufacturer and give it to the farmer to save him from the ruin that the other system has brought on him? Nothing could be fairer. The only trouble is that, easy as it

seems, it will not work permanently, and it is an utterly false policy of government to tax one class of citizens for the enrichment of another class.

If our Republican friends from the Northwest who are so disturbed about the plight of the farmer, are so hard of heart and of head that they can not see this danger in their subsidy scheme, then perhaps enough Democrats may join with them and try their scheme out.

But the logical thing, and the honest thing, for our friends from the Northwest to do is to join with us, the Democrats, and reduce this protective tariff that is at the bottom of all the trouble. If we will do that then things will gradually come back to a sound equilibrium. The farmer will then be able to buy on the same plane he sells on, and it will not be an artificial plane maintained by an un-American subsidy. Then the average farmer will be able to make a decent living for himself and his family and put away something for a rainy day. And I repeat, Mr. Chairman, until the time comes when the average farmer can do this we are not dealing fairly with him, and we are putting the whole Nation in jeopardy.

Some of you Republicans over there are fine fellows. Many of you admit freely in private conversation where the trouble is. Some of you go so far as to admit it in debate on the floor of this House, and then you turn around and vote the other way, which is simply another way of admitting that your party has a strangle hold on you, just as it has on the American farmer. Why do you not show the courage of your conviction and come over into Macedonia and help us? I do not ask you to turn Democrat, because there are some of you who, if you will just stay Republicans, are going to get beat by honest-to-goodness, lifelong Democrats next fall. But pull in harness with us just this once and see how much clearer your conscience will be. It will be good for you as well as for your farmer constituents.

INTERIOR DEPARTMENT APPROPRIATION BILL

The SPEAKER. The gentleman from Michigan moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 6707) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1927, and for other purposes. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The gentleman from Ohio [Mr. BURTON] will please take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 6707, the Interior Department appropriation bill, with Mr. BURTON in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of House bill 6707, making appropriations for the Interior Department. The Clerk will report it by title.

The Clerk read as follows:

A bill (H. R. 6707) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1927, and for other purposes.

The CHAIRMAN. The Clerk will resume the reading of the bill.

The Clerk read as follows:

Mesa Verde National Park, Colo.: For administration, protection, and maintenance, including not exceeding $1,200 for the purchase, maintenance, operation, and repair of horse-drawn and motor-driven passenger-carrying vehicles for the use of the superintendent and employees in connection with general park work, $39,550; for construction of physical improvements, $32,750, including not exceeding $12,000 for the construction of buildings, of which $2,500 shall be available for a community house, and $7,500 for the Aileen Nusbaum Hospital and equipment thereof, and including not exceeding $20,000 for increased water supply; in all, $72,300.

Mr. BLANTON. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Texas moves to strike out the paragraph.

Mr. BLANTON. I want to call the attention of the House to a new policy that is embraced within this paragraph. The time was when the Congress did not furnish all these bureaus and institutions of the Government with automobiles, but during the war and since we have embarked on that bad policy. Now, in this particular paragraph of the bill we have a new policy. We are not only giving them automobiles, but we are giving them horses and horse-drawn vehicles. What kind of horse-drawn vehicles are they going to use out there? Are they going to do some four-in-hand driving or some tandem driving? Just what are they to be furnished with?

Mr. CRAMTON. The total amount available is $1,200 for the purchase, maintenance, operation, and repair of horse-drawn and motor-driven, passenger-carrying vehicles for use in general park work. The gentleman will realize that in a park as large in area as this one which is, as I remember, 30 miles from the nearest town, and that a good deal of that is upgrade——

Mr. BLANTON. The gentleman is not answering my question.

Mr. CRAMTON. The gentleman will realize that there can not be much extravagance when the amount allowed for the purchase, maintenance, operation, and repair of horse-drawn and motor-driven passenger-carrying vehicles is only $1,200. If there are any horses used in that park under this appropriation, they will be work horses used on the road.

Mr. BLANTON. The gentleman says:

If there are any used.

That is the kind of information we get. The gentleman does not know whether they will be used or not. He says:

If they are used, they will be used so-and-so.

Mr. CRAMTON. There are some used in road work, and I suppose if an old wagon needs some repairs it will be done out of this item.

Mr. BLANTON. This is the sole paragraph in this bill that carries horse-drawn vehicles. They could buy for themselves a span of Kentucky thoroughbreds out there, or they could go down to Texas and get a span of Texas standard breds.

Mr. CRAMTON. If the gentleman had ever visited Mesa Verde and so knew of the actual conditions out there he would know that there would not be a penny wasted and not a penny spent on anything except an absolute necessity.

Mr. TAYLOR of Colorado. The park is in my district. If the gentleman will yield——

Mr. BLANTON. I do not yield. I do not want to have all my time wasted.

Mr. TAYLOR of Colorado. If you want information let me give it to you.

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Colorado?

Mr. BLANTON. No; I do not yield. The gentleman can take his own time. I do not want to be interrupted by the distinguished Members of this oligarchy.

The CHAIRMAN. The gentleman from Texas declines to yield.

Mr. BLANTON. We have a right to expect from the chairmen of these subcommittees that they shall be able to give us information. I know that there are members of the Committee on Appropriations in whose districts these hand-outs are given, and I know that they could give us some general information about them; but what we want is specific information from the chairmen of the subcommittees. Why do not the chairmen of these subcommittees ask specific questions of these bureau chiefs and get us specific information?

Mr. CRAMTON. The trouble is that when the gentleman gets the information he does not recognize it.

Mr. BLANTON. I never recognize a generality when I ask for something specific.

Mr. CRAMTON. I said the only use of horses is in general road work.

Mr. BLANTON. The gentleman did not ask specific questions about that when the bureau chief was before his committee. He only knows it because he has been out there visiting.

Mr. CRAMTON. But I do know it.

Mr. VAILE. Because he was out there.

The CHAIRMAN. The committee will proceed in an orderly way. Members will not interrupt. The gentleman will proceed in order.

Mr. BLANTON. I was proceeding in a very orderly manner, but the disorderly colloquy was forced upon me by this oligarchy that prepares these bills. I think they should furnish this specific information. I do not think we should have to rely on the visiting chairman who visits all over this country, where the houses are 30 miles from each other. I asked for specific information that ought to be shown in the hearings. We can not tell what the chairman has learned from his visits. His experience is not shown in the hearings.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. CARTER of Oklahoma. Mr. Chairman, I ask to be recognized in opposition to the amendment. My understanding is that a large part of these thoroughbreds, tandems, and four-in-hands, about which my friend from Texas [Mr. BLANTON]

complains, consist of Navajo ponies, worked by Navajo Indians on the roads in this park.

The gentleman from Texas serves a very valuable purpose in this House, and that is recognized by every Member of the House, but sometimes, it seems to me, the gentleman, to use a sporting term, slightly "overtrains" himself. Day before yesterday he took occasion to criticize the gentleman from Michigan [Mr. CRAMTON] very caustically for having visited some of these irrigation districts, parks, Indian reservations, and so forth, throughout the country. He spoke of his having been dined—he first said wined, but he withdrew that—because he knew the House would accept no such accusation as that against the gentleman from Michigan.

It has been my privilege to be with the gentleman from Michigan on several of these trips. These trips were not official investigation tours authorized by Congress, and most of the expenses fell on the Members making the trip, without cost to the Government. Now and then the gentleman from Michigan would get some obliging superintendent of an Indian reservation, a park ranger, or perhaps some irrigation official to accommodate him with a ride from one project to another, but aside from that the expenses of these trips were borne by the gentleman from Michigan, myself, and other members of the party.

The gentleman from Michigan has a very inquiring mind, and he dislikes to act upon any proposition without all the knowledge he can get about it. After having accompanied the gentleman on several of these investigations, I can say with verity if there is a man in this House who goes to the bottom of a proposition, when once he gets a scent of the trail, it is the gentleman from Michigan. [Applause.] None of this time has been wasted in these investigations. But, as a matter of fact, he has gained very valuable and necessary information. As we all know, the gentleman comes from a country where there are practically no Indians. He comes from a State where there is very little public land, and he comes from a State where there is no irrigation. Naturally the gentleman from Michigan knew very little about irrigation, very little about Indian affairs, and very little about public lands when he came to this House, but he has applied himself so diligently to the task assigned him by this House that he has become an authority on irrigation, on Indian affairs, and on all other things which come under his supervision as chairman of this subcommittee. He has been able to reach that state by making these trips. It is true that occasionally some one invited him to a dinner. It is impossible to refuse all of these invitations. As a matter of fact, the bane of an investigating trip is the almost compulsory entertainment that does with it. A little entertainment, of course, would be very gladly relished, but the fact is, as those of us who have been on investigating trips know, the entertainment is so constant, persistent, and continuous that to yield to all invitations would very seriously handicap and hinder the work in hand.

Mr. BLANTON. Will the gentleman yield?

Mr. CARTER of Oklahoma. I shall be glad to yield in a moment. I have noticed that the gentleman from Michigan has a way of stopping these entertainments when they interfere with his work, and he has a way of stopping them without offending anybody. I now yield to the gentleman from Texas.

Mr. BLANTON. The gentleman has convinced me with specific information, and I withdraw the amendment.

Mr. CARTER of Oklahoma. When the gentleman from Texas spoke Saturday and to-day, he spoke in a somewhat facetious vein, but that does not show in the RECORD. The gentleman from Texas knows that when that goes out to the country the smile he had on his face, when he was accusing the gentleman from Michigan of having been influenced by having been dined, does not show in the RECORD. For that reason I thought I should make these few remarks in vindication of the splendid work done by the gentleman from Michigan during these investigating trips, as well as throughout his service here.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. CARTER of Oklahoma. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for one additional minute. Is there objection?

There was no objection.

Mr. CARTER of Oklahoma. I have nothing in common with the gentleman from Michigan from a political standpoint, but I feel I can say truthfully that I have served with no man in any capacity in my entire life who was more zealous, more diligent, more energetic, and who undertakes to do his work more intelligently and fairly than the gentleman from Michigan. [Applause.]

The pro forma amendment was withdrawn.

The Clerk read as follows:

Mount McKinley National Park, Alaska: For administration, protection, and improvement, $18,700.

Mr. TREADWAY. Mr. Chairman, I offer an amendment to strike out the paragraph.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. TREADWAY: Page 93, lines 11 and 12, strike out the paragraph.

Mr. TREADWAY. Mr. Chairman, it happens I, too, was on the trail of the gentleman from Michigan very unofficially part of the time last summer, and I want to corroborate, although it needs no corroboration in this House, the statement of the gentleman from Oklahoma [Mr. CARTER] who has just taken his seat as to the diligent manner in which the chairman of the Subcommittee on Appropriations, his colleague [Mr. MURPHY], and one or two other gentlemen pursued their work this summer in investigating the items in this bill. I want to say still further that from my personal visit, which I admit, in spite of the jocular way in which the chairman of the committee referred to it on Saturday, was more or less brief in these various places, I think this Government in no one detail gets more worth for its money than in the appropriations we make for the national parks. [Applause.] The service of the park system is wonderful, and I wish to extend my remarks in the RECORD in connection with what I personally saw in the parks, not taking the time for that purpose in connection with this item.

The one park which I visited which it is not worth while for the Government to support is the Mount McKinley National Park in Alaska. It is true, as the chairman said in a reference to another item I criticized on Saturday, it is a very meek appropriation. I do not know just how we get to be meek in the way of spending Uncle Sam's money, but the gentleman from Michigan, I think, did use that phrase in describing an item on last Saturday. It is meek; you are only asking the Government to spend $18,700, but the gentleman who appeared before the subcommittee advocating the Mount McKinley appropriation said that no tourists visit Mount McKinley; it is too inaccessible, and they are glad of it. They are glad they do not have visitors go to Mount McKinley. I went as near as it is possible to get—drove about 15 or 20 miles over a very poor road—and tried to see Mount McKinley. By great good fortune the clouds broke during the morning I was there and I caught a glimpse of this wonderful 20,000-foot-high peak. But why, Mr. Chairman, should the Federal Government spend one dollar in the support of any administration having to do with Mount McKinley? Nothing we can do can remove that wonderful peak. We can not take down Mount McKinley, the largest peak in the Western Hemisphere. What are you going to do with any money? There has been a road built there with Government funds about 8 miles in length. It is laid out for 20 miles farther, and even if you go 30 miles inland from Mount McKinley Park station you will still be over 100 miles from the base of Mount McKinley. Two men are said to have once scaled Mount McKinley, but that is disputed. It is not certain anybody has ever been to the top of Mount McKinley, and still we are asked to appropriate the small sum of $18,000 to leave Mount McKinley standing there.

We can not remove it; we can not improve it; we can not do a blessed thing worth while with an appropriation. They admit in this item of $18,000 that an additional sum is asked at this time—I am reading from the gentleman's testimony before the committee—"an increase in travel expense is requested to permit of inspection of the park activities in 1927 by an officer from Washington." In other words, we are asked to appropriate here a sum sufficient to allow some gentlemen to have a pleasant vacation next summer. I would be glad if Mr. Mather or Mr. Albright would designate me for that trip. I would be glad to go. Last year when I went I paid my own expenses. I felt I was well repaid for the trip; but somebody evidently wants a trip to Mount McKinley at the expense of the Government next summer, and we are therefore asked at this time to increase the appropriation for Mount McKinley.

Mr. SUTHERLAND. Will the gentleman yield?

Mr. TREADWAY. This is a sample, Mr. Chairman, of how generous we have been throughout in Alaskan appropriations.

That is all I care to say, and I withdraw the amendment, because I am sure it will not be adopted.

Mr. CRAMTON, Mr. SUTHERLAND, and Mr. BLANTON rose.

The CHAIRMAN. Is there objection to the withdrawal of the amendment of the gentleman from Massachusetts?

Mr. BLANTON. Mr. Chairman, I object. I want to answer the gentleman.

The CHAIRMAN. The Chair understood the gentleman from Massachusetts to ask leave to extend his remarks.

Mr. TREADWAY. Yes, Mr. Chairman, I ask leave to extend my remarks on the subject of the park system.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. TREADWAY. Mr. Chairman, in the manner in which the national parks in this country are managed and the control exercised over the concessions in them we have the very best illustration of one institution of the Government wherein business methods prevail.

With the increased population of the United States vacation spots and breathing spaces for the people are becoming more and more curtailed. Through wise foresight the national parks have been set aside as the playgrounds of the people. Money appropriated by Congress for their improvement and oversight is as worth while an expenditure as any payment made from the Public Treasury.

The records of the parks show that their use is increasing year by year. Health and pleasure go hand in hand and are bringing the best returns on the principal invested by the Government.

We are particularly fortunate in the men who are at the head of the National Park Service. Mr. Stephen T. Mather and his able assistants have established such a high type of service that their influence permeates to every employee. Only the love of the great outdoors could retain in Government service the type of men who are filling the positions of superintendents of the parks or rangers under them.

As one illustration, let me only mention Mr. H. M. Allbright, the superintendent of the Yellowstone National Park, a cultured, educated gentleman, a disciplinarian, and above all an enthusiast in Government service. It is fortunate, too, that such men as Mr. E. T. Scoyen, chief ranger at the Grand Canyon, and Ranger Clarence Fry at the Sequoia National Park, and many others of the same type can be retained in the service to carry out the details of their chiefs.

One hears a great deal of complaint about monopolies. It is a favorite topic of many speakers. There are also frequently complaints about the manner in which monopoly is regulated by the Federal Government. I want to refer to one monopoly, Government regulated, in the highest terms of approbation. It is the concessions granted in the parks for both hotels and transportation. Accommodations are available at prices fixed under Government authority within the reach of the most modest tourist or one able to pay for the most luxurious rooms. There is a satisfaction in knowing before one leaves home exactly the cost of accommodations for a certain period. There is a further satisfaction when those accommodations are used, in realizing that you are receiving full value for your money.

Such was my experience wherever I traveled in our national parks. In addition to the excellent accommodations, the transportation system is also a wonderfully controlled and regulated monopoly. Hundreds of passengers are moved daily, at prices regulated by the officials, from one portion of the parks to another, particularly in the Yosemite and the Yellowstone, without the least friction, confusion, or difficulty.

To my mind it is the perfection of tourist accommodation. In addition to the hotel and transportation facilities, there is every opportunity for the person, man or woman, driving his or her car, to enjoy the park and live at well-kept camps.

It is unnecessary for me to refer to the national attractions of the parks. They are too well known to need further description. Any citizen having a vacation to spend, particularly if limited in purse, can have no more delightful experience than a tour of as many of our parks as the vacation period may permit.

No country ever possessed greater natural attractions than does ours, and I hope that the high type of service to the people now rendered by Government officials can be indefinitely continued. My life occupation has been connected with the vacationist so I may be pardoned if I feel in some slight degree qualified to speak as to the needs of and methods employed for this ever-increasing class of our people.

Mr. SUTHERLAND. I would like to ask the gentleman from Massachusetts a question.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BLANTON. I object to the withdrawal of the amendment.

The CHAIRMAN. For what purpose does the gentleman from Michigan rise?

Mr. CRAMTON. I rise in opposition to the amendment.

Mr. TREADWAY. Then, Mr. Chairman, let the amendment stand, inasmuch as there is opposition.

Mr. CRAMTON. Mr. Chairman, the Assistant Director of the National Park Service when he appeared before us, stated:

> The park was established primarily to protect its wonderful wild life, and that we feel is our chief function. There are not many visitors, as you know, who go to the Mount McKinley National Park, and we are glad of it, because we have not anything to show them in the way of accommodations; but we have a duty which I consider is quite serious in protecting the wild life against poaching, and an additional ranger is needed. We ought to have more than the one.

The policy of this committee has been, with the tremendous increase there has been in attendance at the national parks and in this time of economy, to use first such money as was available for parks to provide the needed facilities for visitors. There has to be sanitation, there has to be a water supply, there have to be roads, and so forth, and as a matter of fact, we have not really been able to keep up with those needs, and therefore new park areas that are not now being thronged with visitors, we have held back from providing facilities in them, accommodations for tourists, and so forth. So there are no accommodations now in Mount McKinley Park, and we have discouraged providing anything of that kind. We have kept it on the basis primarily of mere administration to protect the game, as has been stated. Some time there will be a development of the park—camps, trails, hotel accommodations will be provided and then there will be a way of taking care of tourists. But until the conditions are different than they are now, we ought not to abandon the park and leave the game subject to the attack of violators of the game laws.

Mr. TREADWAY. Will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. TREADWAY. Does the gentleman think that it is practical to protect such an enormous area as McKinley Park by the employment of one or two rangers. Would it do any good?

Mr. CRAMTON. Yes; it would do some good; the gentleman has already pointed out the limited population of Alaska, and that limits the danger to the game. The rangers will be used where they are most needed.

Mr. HASTINGS. Will the gentleman state what is the area of McKinley Park?

Mr. CRAMTON. It is something over a million acres, something over 26 square miles. It is next in area to the Yellowstone Park, and the time will come when it will be a wonderful recreation area when developed.

Mr. JOHNSON of Washington. Mr. Chairman, I rise in opposition to the amendment. It seems that we have annually the grand assault on Alaska. I hope the distinguished gentleman from Massachusetts will let his heavy voice boom forth repeatedly until he can attract the attention of the whole United States to the wretched way Alaska has been treated all these years, in a legislative way, except for a few paltry appropriations. Remember, gentlemen, that all of Alaska is still 98 per cent in the possession of the Federal Government. If it is ever to be opened, the opening must be by Congress. There is opportunity there for fortunes for many thousands, opportunity for the habitation and the comfort of still many other thousands, but we will have to do the pioneering. For, gentlemen, we have so arranged things by law that no capital can go in there with much chance of success. If capital wins there, we take the winnings. We extended the leasing laws, intended for Western States, to Alaska, and when we did that we laid a dead hand on all Alaska by barring nearly all chance of development there by private capital. That is the proposition in a nutshell. Alaska is suffering from the laws that Congress has passed. Do not abuse Alaska. Instead examine the laws that retard Alaska.

The gentleman from Massachusetts [Mr. TREADWAY] says that the roads to McKinley Park are poor. Of course they are poor. Who lives there that can build roads and trails for that country? What do the small appropriations of the Government amount to in putting roads and trails into the great area of Alaska? Perhaps we can blanket Alaska and let it lie aside and idle for 100 years. We may have to do that because, unfortunately, this Government is not organized to do justice by that country, or to properly care for any insular or outlying possession.

Mr. TREADWAY. Will the gentleman yield?

Mr. JOHNSON of Washington. Yes, certainly.

Mr. TREADWAY. Do I understand the gentleman from Washington to say that the enormous appropriations made for

roads and trails construction does not amount to anything in Alaska?

Mr. JOHNSON of Washington. It amounts to very little in proportion to the great size of that Territory.

Mr. TREADWAY. Then let us do away with it altogether.

Mr. JOHNSON of Washington. I said that the roads and trails built by the Government can cover only a small part, and the people up there can not build any because it is all, or nearly all, Federal domain. We stand up here and talk about what we have done, but somebody always assaults the little that we have done. I say it is a crime and an outrage to stop capital from going there to develop the country, and thus forcing the capital of our country to go to South America and elsewhere.

I am with the gentleman in his effort to shut off the continual annual trips by Government officials from Washington to Alaska. They gain little by it. But even worse is the new practice of assaulting Alaska because conditions are not quite right there. Please remember that in the case of Alaska, we have got the cart before the horse. Under our Constitution we can not give sufficient power to the Governor of Alaska. We can not make our laws which are passed for continental United States fit Alaska or Hawaii or Porto Rico or the Philippines or the Virgin Islands or the Canal Zone. Unfortunately, Congress is so busy that it has no time for intelligent effort in behalf of these outlying possessions—and that is what is the matter with Alaska. [Applause.]

Mr. CRAMTON. If the gentleman will permit, it was in the Budget.

Mr. BLANTON. Mr. Chairman, I do not yield. With the few minutes that I am taking this morning, I am merely illustrating one thing to the new membership of the House. If you ever get up here and interfere with the Committee on Appropriations on a single item that they bring in, you will see happen just what has happened this morning. If you jump on a Republican, then one of the Democratic members of the committee will get up and defend him; and if you jump on a Democrat, one of the Republican members will come to his rescue and overwhelm you with his defense.

The gentleman from Michigan [Mr. CRAMTON] needs no defense at the hands of the gentleman from Oklahoma [Mr. CARTER] from any attack that I might make. I would defend the gentleman myself as quickly as anyone in the House. I believe in him. He is one of the stalwart Republicans of the House and speaks in Democratic language sometimes on some measures that are not too partisan. I would even go to his State and make speeches for him, if it were necessary. But all that does not keep me from attacking some of the foolish items that he puts in his bill. However, there is no chance to change the bill, except by points of order. When the Committee on Appropriations brings in a bill, it must be passed as it is written. You can not change it.

Mr. CRAMTON. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes.

Mr. CRAMTON. As I understand it, the only item that we have brought in here which the gentleman criticizes the committee for bringing in on the ground it is not in the Budget is one that he says he favors himself.

Mr. BLANTON. Yes; but I do not favor the policy of just putting in everything that these bureau chiefs ask you to do. I do not favor the policy which puts in such an item as, say, the $400,000 Baker project in Oregon, simply because our good friend from Oregon [Mr. SINNOTT], whom we all love, goes to the committee and asks it after the gentleman from Michigan [Mr. CRAMTON] visits out there, when the Budget has not recommended it. And I do not approve of the policy of putting in, say, this splendid project out in Colorado, simply because our beloved colleague from Colorado [Mr. TAYLOR], who is on the Committee on Appropriations, wants that item, and it was put in because he wanted it, and, of course, he is ready to defend it. I do not blame him for that. I admire him for defending it. That is what the people of Colorado sent him here for. He can very ably and efficiently defend anything that concerns Colorado, but why have not we a right to attack items in this bill if we want to? That is all I want to say, Mr. Chairman.

Mr. SUTHERLAND. Mr. Chairman, I do not want to let the assertion of the gentleman from Texas [Mr. BLANTON] that I am opposed to this item go uncontradicted in the RECORD. I am, of course, in favor of the item. So far as it relates to the payment of the expenses of junketeers on trips through the Territory, I should be against it. I wish that the Committee on Appropriations might be able to learn from the various departments in Washington just how many Washington employees have been on junketing trips to Alaska during the past season. That would be very interesting information. I think it might open the eyes of Members of the House to the fact that Alaska is to-day looked upon as a playground, as a vacation ground for employees in Washington, and they invariably go there at Government expense.

Mr. CRAMTON. Mr. Chairman, will the gentleman yield?

Mr. SUTHERLAND. Yes.

Mr. CRAMTON. I may be wrong, but it is my recollection that neither Mr. Mather, the head of the National Park Service, nor Mr. Cammerer, the assistant director, nor Mr. Demaray, the administrative assistant, has ever visited the Mount McKinley National Park, which they are administering. I think that no supervisory official has ever visited that park. The time is going to come when the gentleman from Alaska [Mr. SUTHERLAND] and others are going to insist that we permit some development in that park, that we provide some accommodations for tourists. We have not done that as yet, but that is going to be the duty of the National Park Service at some time, and is it not going to be vitally essential that some supervisory official, having that responsibility, should take up that matter and proceed with the making of plans?

Mr. SUTHERLAND. I assume that the supervisory officials of the national parks and public roads have a fund out of which they may pay their expenses, no matter where they may go. I do not assume that a special fund is necessary to be appropriated for that purpose.

Mr. CRAMTON. It costs the Government just the same, whichever fund it comes out of. I thought the gentleman was criticizing the fact that some such official might go there.

Mr. SUTHERLAND. Oh, I am not criticizing any proposed visit of a supervising official to Mount McKinley National Park, but I am criticizing the sending of secretaries to Cabinet officials and subassistants up there to inspect, say, our fisheries, something that they know absolutely nothing about. They would not know which end of a fish moved ahead in the water if they saw one. They pass through the Territory and go back to Washington, and we never hear anything of what they see or what they have done; but we do know that they were traveling all of the time at Government expense, and in many cases dabbling in our Territorial politics. Those are the visits that I criticize. Members of Congress go there and come back and announce every time that they have paid their own expenses. They should. Why should they travel at Government expense? I do not think there is any particular credit due them in the fact that they travel at their own expense.

With respect to the remarks of the gentleman from Washington [Mr. JOHNSON] about the effect that this annual attack against Alaska has upon the investing public, let me say that last Saturday a representative of one of the very largest mining concerns in the United States called at my office to inquire what the result of this was going to be with regard to the operation of the Alaskan Railroad. I could not tell him, of course, but his company to-day is making an investment of $8,000,000 in a mining project which is just beyond the interior terminal of the Alaskan Railroad. They depend entirely for the transportation of their freight and all supplies upon that railroad, and right to-day the matter is hanging in the balance with them as to whether they shall go ahead or wait until they find out what the action of Congress is going to be with respect to the railroad. The effect of these attacks on the committee and on the appropriations for Alaska is disastrous upon the investing public in the United States.

Mr. TAYLOR of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SUTHERLAND. Yes.

Mr. TAYLOR of Colorado. Is not the greatest blight on Alaska at the present time the fact that it is administered by practically all the bureaus of all the departments and that there is no head or tail to the system of administering the various resources of that country, and until we can have all of these activities consolidated in some bureau or some one department, so there will be some responsible coordinated head, we never will have any satisfactory developments in Alaska?

Mr. SUTHERLAND. I would say so.

Mr. Chairman, under the permission granted me to revise and extend my remarks, I herewith submit the following statement regarding Federal expenditures in Alaska.

NOTES ON FEDERAL EXPENDITURES IN ALASKA FOR FISCAL YEAR 1924

Statement is made that Alaska costs the Government $10,000,000. This is the amount of the expenditures, but account should also be taken of the receipts of over $2,000,000, bringing the net amount of the expenditures to $7,955,024, or $8,000,000, instead of $10,000,000.

Statements are made to the effect that it costs $10,000,000, which should be $8,000,000, for the operation of the Territory.

The amount expended includes items for permanent investment, in improvements, such as the building of roads and trails, the building of the post-office building at Cordova, completion of the Alaska Railroad. From the data at hand we can not separate all of these charges, but the total of such expenditures would exceed $2,075,340, leaving the amount of maintenance and operation of the various departments in Alaska $5,919,644.

It is popular to divide the amount expended in Alaska by the estimated number of white residents. The natives participate to some extent in all expenditures made for Alaska, but certain of the appropriations are made directly for the Indians and certainly should not be included in the total that is divided by the number of white inhabitants. The largest of these expenditures is $496,737.21 for education and medical relief of the natives. Therefore, disregarding other expenditures for the natives, the expenditure is reduced to $5,422,907.

Of the above figure, $5,422,907, not all is expended at the request of the white population or is of any benefit to them, such as the following:

Weather Bureau	$12,106.51
Investigation and protection of wild animal life (for the benefit of "outside" hunters)	28,005.55
Steamboat inspection	17,526.00
Lighthouse Service (for commerce and shipping of the world)	369,718.00
Coast and Geodetic Survey (as above)	533,458.00
Fur Seal Service (for seal-fur users in States)	176,705.00
Protection of fisheries (for food supply for people in the States)	128,041.00
Fish culture (as above)	42,173.00
General fishery investment (as above)	6,936.00
Expense of Coast Guard Service	299,781.66
Expenses of boundary between United States and Canada	1,378.91
Expended for military purposes	646,831.36
Navy petroleum reserve, No. 4	75,000.00
National Park Service	8,272.82
Protection of game	18,347.62
Total	2,364,281.43

After deducting the above items, the amount to be divided is $3,058,626.

However, in this amount is included expenditures that are for the future development of Alaska, and of no immediate advantage to those now living there, such as—

Maintenance and operation of experimental farms	$70,438.25
Administration and protection of national forests	111,136.07
Investigation of reindeer industry	20,876.95
Geological Survey	75,423.57
Total	277,874.84

leaving the amount to be divided $2,780,751. Of this amount $151.237.78 is for the care of the insane, which is chiefly for insane persons who come to Alaska for seasonal work, and very few of whom are from the permanent residents, and should therefore not be included.

In the Post Office Department only the receipts from post offices in Alaska are credited, while seven-eighths of the mail is inbound. The post-office receipts should, therefore, have an additional credit of $926,000, thereby reducing the total to be divided between the permanent residents of Alaska to $1,703,513 instead of $10,000,000. But should the permanent white residents be charged with this total amount? There is a large summer population—men with business interest, tourists, and employees at canneries and in other seasonal occupations. The Indians do quite a portion of the laborers' work, and many of them are profitably engaged and helping in the development of the Territory.

Fifty dollars instead of $500 would be more nearly an accurate charge against the permanent white residents of the Territory.

Federal expenditures in Alaska, fiscal year 1924

	Gross expenditures	Receipts	Net expenditures
Department of Agriculture:			
Maintenance and operation of experiment stations	$70,438.25		
Enforcement of food and drug act	355.00		
Weather Bureau	12,106.51		
Administration and protection of national forests	111,136.07		
Investigation of reindeer industry	20,876.95		
Investigation and protection of wild-animal life	28,005.56		
Construction of forest roads and trails	639,181.40		
	882,099.74	$144,099.71	$738,000.03
Department of Commerce:			
Steamboat inspection	$17,526.00		
Lighthouse Service	369,718.00		
Coast and Geodetic Survey	533,458.00		
Fur-seal service	176,705.00		
Protection of fisheries	128,041.00		
Fish culture	42,173.00		
General fishery investment	6,936.00		
	1,274,557.00	$111,271.00	$1,163,286.00
Department of Labor:			
Immigration Service	8,492.32	1,418.00	7,074.32
Treasury Department:			
Expenses of collection, Customs Service	43,701.68		
Expenses of collection, Internal Revenue	1,589.92		
Additional income tax on railroad in Alaska	18,358.28		
Expenses of Coast Guard Service	299,781.56		
Expenses of Public Health Service	21,361.50		
Operating expenses, public buildings	2,728.77		
Post office and courthouse, Cordova	76,851.00		
	464,372.71	266,680.30	197,692.41
State Department:			
Expenses, boundary between United States and Canada	1,378.91		1,378.91
War Department:			
Expended for military purposes	646,831.36		
Other expenditures (nonmilitary)	1,058,791.98		
	1,705,623.34	107,365.35	1,598,257.99
Navy Department:			
Radio stations	101,792.78		
Navy Petroleum Reserve No. 4	75,000.00		
	176,792.78		176,792.78
Department of Justice:			
Fees of witnesses and jurors, support of prisoners, salaries, fees, and expenses of district attorneys and other expenses	658,186.78	372,326.97	285,859.81
Post Office Department:			
Star-route (overland) service	150,531.76		
Steamboat service	371,390.05		
Mail-messenger service	11,101.00		
Railroad service	43,348.52		
Salaries and expenses, post-office inspectors	4,214.00		
Salaries and expenses, chief clerk, Railway Mail Service	6,704.50		
Postal clerks on steamers	17,159.23		
Compensation to postmasters	66,821.00		
Post-office clerk hire	69,859.00		
Post-office rent, light, fuel, etc.	16,092.00		
	757,221.06	132,305.01	624,916.05
Department of the Interior:			
Office of the Secretary—			
Salaries	7,000.00		
Contingent expenses	9,976.23		
Legislative expenses			
Public schools, Alaska fund	19,569.15		
Care, custody, etc., of insane	151,237.78		
Protection of game in Alaska	18,347.62		
Suppressing traffic in intoxicating liquors	12,791.95		
	218,992.73		
Bureau of Education—			
Education and medical relief, natives of Alaska, and reindeer for Alaska	496,737.21		
General Land Office	75,689.23		
National Park Service	8,272.82		
Geological Survey	75,423.57		
Bureau of Mines	33,877.76		
The Alaska Railroad—			
Maintenance and operation	2,297,573.78		
Improvements	859,347.36		
	3,156,921.14	903,857.88	3,161,986.58
	4,065,844.46		
Total	9,994,348.04	2,039,324.22	7,955,023.82

The CHAIRMAN. The time of the gentleman has expired. The question is on the adoption of the amendment proposed by the gentleman from Massachusetts.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Platt National Park, Okla.: For administration, protection, maintenance, and improvement, $12,400.

Mr. SWANK. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 94, line 2, after the word "improvement," strike out the figures "$12,400" and insert in lieu thereof "$25,000."

PLATT NATIONAL PARK

Mr. SWANK. Mr. Chairman and gentlemen of the committee, I have appeared before you many times on the floor of this House and before the Committee on Appropriations asking for additional appropriations for Platt National Park, near Sulphur, Okla. Among my many other duties as a Member of this body, I have presented the claims of this park before the Subcommittee on Appropriations for the Department of the Interior, the National Park Service, the Budget Committee, and the membership of the House. I have done everything possible to convince those in authority of our need for greater appropriations for this park. I am here again asking for a larger appropriation, and will be here again next year and until the necessary amount is granted, consistent with the growth of the park and the good it is accomplishing for the thousands of people who visit there each year.

For the fiscal year 1924 the subcommittee recommended an appropriation of $10,000, which is $2,500 more than the amount received the preceding year, and for 1925, $11,920 was recommended by the subcommittee. In addition to this amount for 1925, the chairman of the subcommittee, the gentleman from Michigan [Mr. CRAMTON], agreed to my amendment increasing the recommendation of the committee by $6,000, and bringing the total appropriation in the bill to the sum of $17,920. A further appropriation of $42,000 was made for road work in the park. In comparison with the amount the park was receiving for maintenance and upkeep when I came to Congress, this is a good increase, but insufficient, considering the growth of the park. When the people sent me here the park was receiving but $7,500 per year for all purposes. The appropriation last year, including the amount for road work, was $59,920. It is, of course, gratifying to receive this large increase over preceding years, but if every member of the Committee on Appropriations and the membership of this House could indulge in the pleasure of visiting this park you would at once be impressed with the necessity of larger appropriations and wonder at the modest appeals for more money to increase the usefulness of the park.

I am at this time offering my amendment to increase the amount of $12,400, recommended in the bill by the Committee on Appropriations, to $25,000. I tell you in all seriousness that more than this amount should be given. Larger appropriations are needed to keep the park improved and prepared for the increased number of visitors, and the number is increasing rapidly each year, as the tables will show from the report of the Director of the National Park Service. The report of the superintendent for 1924 shows that the city of Sulphur, by reason of the great need for additional improvements for the comfort of the visitors, spent between $16,000 and $17,000 in the park for community buildings, comfort stations, and extension of the sewer and water lines. This large contribution by the enterprising and good people of Sulphur shows their activity and progress. This is a national park and these people should not be required to spend their money for the proper upkeep of this park, but Congress should make sufficient appropriations as it does for other parks that have many thousand fewer visitors. The citizens where any national park is located should not be compelled to pay out their money to maintain such parks. They belong to the people of the United States and not to the communities nor the States where they are located.

The chief purpose and consideration in making appropriations for our national parks, in my judgment, should be their usefulness, the purpose they serve, and the number of people who visit them each year. Platt National Park contains 848.31 acres and was created by acts of Congress of July 1, 1902, and April 21, 1904. It is located in Murray County and is adjacent to the city of Sulphur, with its progressive, intelligent, law-abiding citizenship, unsurpassed and unexcelled by any other community in the country. There visitors will always find a sincere, cordial welcome that makes you feel at home. The hotel accommodations are good, with moderate and reasonable charges. There are many first-class restaurants and rooming houses at moderate cost. There are also excellent and convenient locations reserved for campers and no charges made.

Mr. Cammerer, of the National Park Service, in his statement before the subcommittee, on page 873 of the hearings, said:

This park is located in southern Oklahoma and adjoins the city of Sulphur. It contains medicinal springs, which are said to have high curative value. Physical improvements: Eleven miles of road, one stone office building, six cottages and outbuildings, two community buildings, nine cement comfort stations, pavilions over five springs, two bridges and six causeways, and public camp grounds having sewer and water systems and electricity for lights.

The report of the Director of the National Park Service for 1922, on page 66, states:

During the year the city of Sulphur, which adjoins Platt National Park, donated between $13,000 and $16,000 for park improvements. * * * This excellent cooperation on the part of the city of Sulphur was appreciated both by the visitors and this service. It is estimated that 246,998 visitors in all entered the park gates. As many of them undoubtedly repeated their visits from day to day, 70,000 individuals is considered a fair estimate of the travel. The park is a focal point for motor travel from all the Southern States west of the Mississippi. During the season the campers held several big meetings and community camp fires and organized a Platt Park Club with over 100 vice presidents in different States. The aim of the club is to tell others of the benefits to be derived from the health-giving waters of the park and to see that it has financial help to properly maintain it and for needed improvements. The wild animals maintained under fence in the park were added to—a fine bull elk from Yellowstone was received, four fawns were added to the deer herd, and a baby buffalo was born in the park. The park roads are especially in need of improvement, and adequate appropriations should be made to bring them up to a standard worthy of a national park.

On page 78 of the report of the National Park Service for 1923 is this statement:

During the year the city of Sulphur, which adjoins Platt National Park, continued its cooperation in every way possible in helping the park serve the thousands of visitors. Records show that 470,841 people entered the park gates, but as many of them undoubtedly repeated their visits from day to day, 117,710 individuals is considered a fair estimate of the travel. The park is a focal point for motor travel from all the Southern States west of the Mississippi, and its popularity as a health and pleasure resort is increasing yearly. Little in the way of extensive improvements has been made, and to properly care for the increasing patronage there is needed larger annual appropriations for the extension of camp grounds, sewer, water, and light systems, and for general sanitation. The park roads were not constructed for automobile traffic; they are narrow and need to be widened and resurfaced.

The annual report of the Director of the National Park Service for 1925 shows a total of 2,108,084 visitors to our parks and monuments, as compared with 1,670,908 in 1924. This report further says:

These figures are of significance to every thinking American, for it is evident that the nation-wide revival of interest in outdoor recreation is carrying our health and pleasure seeking people into the national parks in a far larger degree than was expected 10 years ago, when the service was created. The travel induced by the attractions of the national parks, irrespective of other local attractions, means the distribution of hundreds of millions of dollars throughout the country, of which a great portion is left in the States in which the national parks are located. It is the national park cross-country tourist who distributes money into sections that are away from money-making industrial centers. Tourist money goes straight into circulation and immediately benefits the locality visited.

This great flow of tourist gold is adding new life to communities unprogressive for years. It is a particularly dependable annual source of income for many of the Western States. It has been told me in many sections of the West that when short crops and droughts produced failures, or epidemics among livestock depleted the capital investments of substantial citizens of a community, the tourist money was the stable source of income that assisted in keeping the community alive. Every visitor is a potential settler and investor.

Continuing, the director says:

It is with gratification that I report the satisfactory condition of the wild life in the national parks. The animals themselves seem to know that the parks provide a safe refuge for them. Where thousands of motorists visit the parks and must be accommodated in the public camp grounds, it is inevitable that serious problems of sanitation are encountered and must be solved. It is imperative that from year to

year more funds must be secured to carry this work forward, and this is considered one of the most important of the duties devolving upon the service in providing for its guests.

This report of the National Park Service shows that the visitors in our national parks have increased from 488,268 in 1917 to 1,670,908 in 1924, and the appropriations have increased from $537,366.67 in 1917 to $1,822,730 in 1924. The appropriation for the fiscal year 1926 is $3,243,409. In addition to this, the Interior Department appropriation act of March 3, 1925, carried an additional $1,500,000 for road construction in the parks. These figures show the increasing importance of our national park system in its service to the citizens of our country. Not only are the local communities where the parks are located benefited by the visitors, but the visitors are benefited by outings to these places endowed so richly by nature; and especially is this true where the parks have a plentiful supply of medicinal water, as is found at Platt National Park.

The report of the Director of the National Park Service for 1925 and the hearings on this bill show the number of visitors in our leading parks, appropriations, and private automobiles entering the parks.

Visitors, 1920 to 1925

Name of park	1920	1921	1922	1923	1924	1925
Platt	38,000	60,000	70,000	117,710	134,874	143,380
Yellowstone	79,777	81,651	98,223	138,352	144,158	154,282
Yosemite	66,906	91,513	100,506	130,046	105,894	209,166
Mount Rainier	56,491	55,771	70,371	123,708	161,473	173,004
Rocky Mountain	240,966	273,737	219,164	218,000	224,211	233,912
Grand Canyon	67,315	67,485	84,700	102,166	108,256	134,053
Lafayette	66,500	69,836	73,779	64,200	71,758	73,673

Appropriations, 1921 to 1926

Name of park	1921	1922	1923	1924	1925	1926
Platt	$9,000	$7,500	$7,500	$10,000	$10,000	$17,920
Yellowstone	286,000	350,000	361,000	368,000	372,800	396,000
Yosemite	303,000	300,000	280,000	295,000	300,000	252,714
Mount Rainier	40,000	150,000	106,800	133,000	100,000	106,500
Rocky Mountain	40,000	65,000	73,900	74,280	93,000	84,660
Grand Canyon	60,000	100,000	75,000	125,400	216,000	192,360
Lafayette	20,000	25,000	25,000	30,000	34,700	34,190

Private automobiles entering the parks

Name of park	1922	1923	1924	1925
Platt	30,000	50,000	57,400	60,000
Yellowstone	18,253	27,359	30,689	33,068
Yosemite	19,583	27,233	32,814	49,299
Mount Rainier	17,149	27,655	38,351	39,860
Rocky Mountain	52,112	51,800	53,696	58,057
Grand Canyon	7,890	11,731	13,052	19,910
Lafayette	8,650	8,600	12,561	9,381

Visitors in other parks

Name of park	1920	1921	1922	1923	1924	1925
Sequoia	31,508	28,263	27,514	30,158	34,468	46,677
Crater Lake	20,135	28,617	33,016	52,017	64,312	65,018
Mesa Verde	2,890	3,003	4,251	5,236	7,109	9,043
Glacier	22,449	19,736	23,935	33,988	33,382	40,063
General Grant	19,661	30,312	50,456	46,230	35,020	40,517
Zion	3,692	2,937	4,109	6,408	8,400	16,817

Appropriations for other parks

Name of park	1921	1922	1923	1924	1925	1926
Sequoia	$36,000	$86,000	$78,000	$120,000	$136,000	$71,710
Crater Lake	25,300	25,300	32,000	35,000	30,700	35,980
Mesa Verde	14,000	16,400	43,000	35,000	42,500	42,835
Glacier	107,564	195,000	178,700	225,000	281,000	184,960
General Grant	5,300	6,000	6,500	50,000	14,175	12,180
Zion	8,885	10,000	10,000	13,750	15,190	20,000

In determining the value of a national park we must take into consideration the number of its visitors. Our parks should, of course, conserve the natural scenery and animal life, but appropriations should bear relation to the benefit to our people and the country in general. Figures taken from the report of the superintendent of Platt National Park show the visitors as follows:

Visitors for the past seven years:

1919	107,918
1920	173,310
1921	216,022
1922	246,998
1923	470,841
1924	539,495
1925	573,522

The visitors have increased from 107,918 in 1919 to 573,522 in 1925. The reports of the Director of the National Park Service show that in 1924, 57,400 private automobiles entered the park and the number was increased to 60,000 in 1925, and for these two years excelled the number of private automobiles entering any other of our national parks. The superintendent of the park in his report to the director shows that 539,495 people visited Platt National Park in 1924, and that this number was increased to 573,522 in 1925. The National Park Service estimates the number of visitors for these two years at 134,874 and 143,380, and, as a basis for this reduction, gives the reason that many visitors entering the park gates were counted more than once. While it is true that visitors were sometimes counted more than one time, it is also a fact that thousands of people who visit the park each year are never counted at all, for the reason that they do not visit Bromide Springs, where visitors are checked. If those who visited the park and were never checked at Bromide Springs were counted, the reports would show thousands more visitors. After this great reduction by the director in making his estimate of visitors there were but six other parks that had more visitors than Platt in 1925. These figures show the wonderful growth of the park and its need for larger appropriations in properly caring for these visitors and adequate development work.

The director's report for 1923 says:

To properly care for the increased patronage there is needed larger annual appropriations for the extension of camp grounds, sewer, water, and light systems, and for general sanitation.

The report of the Secretary of the Interior for 1924 states:

Platt Park, which is open all year, was visited by 134,874 visitors last year, compared with 117,710 in 1923. On July 4 alone over 20,000 people visited the Bromide Springs and drank of the medicinal waters. The park is gaining in favor as a health and pleasure resort.

Mr. Chairman and gentlemen of the committee, Platt National Park is property of the Government, and as such should be properly maintained in accordance with the benefits it renders the people of the country. While it is not so large as some of our other parks, I believe it does more real good to a greater number of people than any of the other parks. The Legislature of Oklahoma has appropriated more than $270,000 for the erection of a sanitarium and hospital for soldiers of the World War, and, after a thorough and careful survey made by a committee of prominent physicians, located this hospital at Sulphur, near the park. The hospital is in charge of a staff of competent physicians, surgeons, and nurses, and gives first-class treatment to its patients. I have visited the hospital many times and have always found it clean and sanitary, the officials courteous, kind, and considerate, and everything possible done for the patients. The superintendent of the hospital states that the value of this property, buildings, improvements, and equipment is $400,000. The legislature appropriated $120,000 for maintenance for the fiscal year. The citizens of Oklahoma are always doing everything possible for the proper care and treatment of our soldiers, and located this hospital in the most healthful surroundings, where the scenery is beautiful, and surrounded by Christian influences, and the selection was wisely made. Sulphur has an excellent school system, and here is located the State School for the Deaf, with a large enrollment, a fine campus, many buildings, and able teachers.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. SWANK. Yes.

Mr. TREADWAY. I understood the gentleman to say that the water was particularly good for bathing purposes. Does it apply to the girls or the men?

Mr. SWANK. To all of them. I would be glad if the gentleman from Massachusetts would go down there and take a bath and a few drinks of the bromide water.

Mr. Chairman, Platt National Park has more than 30 mineral springs, and is one of the most noted health resorts in the whole country. These springs afford an ample supply of water, unsurpassed in quality and character. The visitor there will find pure water, bromide, medicine, and all kinds of sulphur water. Any kind of water can be found in this park that is beneficial to the health of the human body. No finer place can be found at such small expense for people who want a good outing, and the miraculous wonders effected by the waters in curing disease can not be told. I wish every Member of this

House could pay a visit to this park and take a few drinks of this water and bathe in the many swimming pools watered by great artesian wells. You would be wonderfully rejuvenated in both mind and body, and the effects of the water can not be exaggerated. No park furnishes wells and springs of water with such wonderful properties. One of these wells flows 2,500 gallons of pure, clear, sulphur water per minute, and Buffalo Springs flows 5,000,000 gallons per day. It is indeed a great sight to see thousands of people—old, young, healthy, decrepit men, women, and children—swim in these waters each day during the spring, summer, and fall.

The bromide water is almost a sure cure for all forms of nervousness, stomach and digestive disorders, and sleeplessness will be cured by a few drinks and the patient can enjoy that needed rest that is so essential to good health. The sulphur water affords one of the best treatments for rheumatism, and I have personally seen stubborn cases yield to the treatment in a few days, and for skin diseases of all kinds this place is unexcelled.

While this is essentially a park for people of modest means, all classes of people from every section of the country visit this park each year. It is a place where people can find everything they want in the way of amusements and can have their health restored if it is impaired. Excellent camping grounds are provided for those who do not want to stay at the hotels. People who can not spend large sums of money for treatment in most cases can be cured here at little expense. There is no charge to camp in the park nor to drink the water, and all other expenses are most reasonable.

The city of Sulphur, adjacent to this park, is a most beautiful little city, with an elegant, well-equipped auditorium, a fine new county courthouse, churches of almost all denominations, private hospitals, bathhouses, and first-class physicians and surgeons. In addition to all this, visitors will find a most hospitable, generous, friendly people. The Ozark Trail and the Bankhead Highway pass through Sulphur. It is traversed by the principal motor route through the State and is on the Santa Fe and Frisco railroads. Other roads in that county are good and it is near the Washita River and the Arbuckle Mountains. This is a park of great natural beauty, but its chief value is in restoring people to health, reviving low spirits, renewing the vigor of youth, and in giving visitors a new lease on life with more promising prospects for the future.

Mr. Chairman, this is one of our greatest parks, when we consider value by services rendered, and should be adequately provided for, along with our other great parks, in conformity to the program of our National Park Service. Many Government improvements are needed in Platt National Park; among them should be increased appropriations for continued improvement of the roads, extension of sewer and water lines, additional comfort stations, tree planting, further improvements at Bromide Springs, the drilling of additional wells, dams across the creek flowing through the park, improved camping grounds, and the construction of proper residences and office buildings for the superintendent and other employees. In addition to this, further appropriations should be made for the establishment of a Government bathhouse where people can bathe in these wonderful life-giving, health-restoring waters at the many springs at actual cost. These are some of the necessary improvements that are greatly needed and for which sufficient appropriations should be made. Money can not be expended to a better advantage than to restore the health of our citizens. The amount recommended by the Budget Committee is greatly inadequate and I hope this Committee of the Whole will adopt my amendment for the small increase requested.

Mr. CRAMTON. Mr. Chairman, I think the best description of this park that I have seen is——

Mr. SWANK. Mr. Chairman, before the gentleman proceeds I wish to ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma.

There was no objection.

Mr. CRAMTON. The Platt National Park is a municipal park of some State importance, maintained by Federal funds. I think that is a fair characterization. It never should have been made a national park. It is not of the national importance from any standpoint to justify setting it aside as a national park. But nevertheless it is a national park, and we are providing for its administration. It is patronized by a large number of people from Sulphur City and the vicinity who appreciate the importance of a bath in the particular kind of water that those springs possess. We made an increase in the appropriation last year on account of the gracious manner of the gentleman from Oklahoma and his personal charm; we accepted his amendment last year making an increase of $6,000. It should not become a habit to increase the appropriation each year by $6,000.

Mr. DENISON. Is there any wild life in this park that needs protection?

Mr. CRAMTON. None that they brag about.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The question was taken; and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

National monuments: For administration, protection, maintenance, preservation, and improvement of the national monuments, including not exceeding $400 for the purchase, maintenance, operation, and repair of motor-driven passenger-carrying vehicles for the use of the custodians and employees in connection with general monument work, and including $500 for the construction of buildings, $21,270.

Mr. MORROW. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New Mexico moves to strike out the last word.

Mr. MORROW. Mr. Chairman and gentlemen of the committee, I desire to call your attention to the fact that you have just passed expenditures for 19 national parks, which aggregate, according to my estimate, about $1,150,000 a year. I am not opposing the expenditure of this amount of money for this great American educational feature, because I think it one of the most worthy objects we have in the United States to-day. But I want to call your attention to this fact, that we have 32 national monuments under the administration of the National Park Service, and that the expenditure for these 32 national monuments, which in character are similar to the national parks, but of a much inferior character, is $21,270. Your chairman announces the figures, and they are absolutely correct, that 2,108,064 people visited the national parks in the year 1925. I want to call your attention to this fact, that while we did spend scarcely any money on national monuments, yet 247,572 people visited the 32 national monuments in the United States that were under the supervision of the National Park Service.

Now, I want to call the attention of the Budget Commission and the Members of this House to the fact that the national monuments do not receive the attention in the appropriation bill that they should receive. Many of these monuments are of almost national park character. In my State there are eight of these national monuments. In the State of Arizona there are nine. We have a great many national monuments that are not supervised by the National Park Service. There are 14 under the Department of Agriculture and 10 under the War Department.

I am presenting you these figures to show you that one-sixth as many people visited the national monuments during the past year, with practically no expenditure on the part of the National Park Service or provision made by the Budget for any expenditure except for the merest possible supervision, notwithstanding this almost one-sixth as many people visited the 32 national monuments as visited the national parks. Besides the $1,150,000 appropriated for the national parks there is a road appropriation to be expended in three years of $7,500,000, and every dollar of that will go to the development of roads to the national parks and not one dollar will go to the development of the roads to national monuments. In my State we have three national monuments which are practically to-day attracting just as much attention as any national park in the United States, and the National Geographic Society is spending in New Mexico thousands of dollars in excavating ancient pueblos. Two of these are the Bandelier National Monument and the Chaco Canyon National Monument. The Bandelier National Monument offers the visitor a rare combination of scenic beauty and antiquarian interest. West of the Rio Grande at Buckman, N. Mex., but 1,000 feet above it, lies the Pajarito Plateau, a rolling yellow-pine country cut by deep canyons that lead down to the river. One of these canyons contains a pretty little mountain stream, the Rio de los Frijoles. Between picturesque cliffs and canyon walls this stream literally tumbles into the Rio Grande over many falls, two of them 80 feet high. On a little flat bordering this stream, where fields were available close by, some prehistoric man established his communal house, his dwellings in the cliffs, and his kivas—the village of Tyuonyi. Others of his people lived in villages on the Pajarito Plateau and in near-by canyons, where natural defenses made their habitations more secure. Long ago these people disappeared, but the ruins of their cities have remained.

Adolph F. Bandelier, the distinguished archæologist whose name has been given to the national monument, was a native of Berne, Switzerland. In visiting the Bandelier National

Monument one should not fail to see the communal house, the cliff ruins, the ceremonial cave, the upper and lower falls, the gorge of the Rio Grande del Norte at the mouth of the Rito, the stone lions of Cochiti and the ancient ruins of Yapashi near by, the painted cave, the ruins of Otowi and Tsankawi, and the stone tents. It should be noted that along the Rito de los Frijoles there are many excavations and restorations of talus pueblos, cliff ruins, and kivas. Some of the tools, implements, and simple household equipments of the former inhabitants have been restored as they were centuries ago.

As examples of prehistoric architectural skill the ruins of the Chaco Canyon National Monument are without equal in the whole United States. The cultural material recovered from their abandoned rooms excels in variety, technique, and beauty of design that from any other archæological site in the entire Southwest. No written word of history exists concerning the Chaco Canyon builders.

This is from a departmental memorandum for the press.

I am not going to offer an amendment to this item of the bill, but I am calling the attention of the Members of the House to the fact that the national monuments are neglected. I am not saying that the National Park Service is neglecting them, but I know that these different States in the western country that have their national parks and get these appropriations pay no attention to the national monuments, and that the National Park Service, in order to secure the necessary appropriations for the parks, neglect the national monuments. I want to say that if one-sixth of the people of the United States visit the national monuments in proportion to the number that go to the national parks and you spend practically nothing for them, there certainly must be some neglect somewhere in providing for the development of the national monuments.

Mr. Chairman, I withdraw my pro forma amendment.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

The Clerk read as follows:

For administration, protection, maintenance, preservation, and improvement of Carlsbad Cave National Monument in New Mexico, $15,000.

Mr. MORROW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Mexico offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MORROW: Page 96, line 25, after the words "New Mexico," in line 25, strike out "$15,000" and insert in lieu thereof "$25,000."

Mr. MORROW. Mr. Chairman and members of the committee, I offer this amendment in conformity with the request of my people in the State of New Mexico. This Carlsbad monument is to-day perhaps one of the most wonderful attractions in the United States. Many of the Members of the House heard the lecture delivered by Dr. Willis T. Lee—and saw the pictures—last winter in the caucus room. The National Geographic Society is giving this monument wonderful advertisement throughout the United States.

On October 24, 1923, the President of the United States proclaimed the caverns a national monument. At that time it was the property of the State of New Mexico. The President perhaps was not aware of that fact, but it had been deeded and passed to the State of New Mexico many, many years before. However, the people of the State of New Mexico voluntarily surrendered their rights to this monument so that the Government of the United States might improve the same.

Two years ago we had to offer an amendment in the House to the appropriation bill for $5,000 to make an inspection and survey of this monument. Last year we had to offer an amendment in the House of $25,000 to get the necessary improvements to this monument carried forward.

The people of Carlsbad have erected a stairway leading into these caverns at their own expense. The State of New Mexico has built a road 24 miles long, an up-to-date, drained road leading to these caverns. It is to-day, as I said, advertised throughout the entire United States. The transcontinental lines of railroads are selling tickets and requesting their passengers to visit these caverns on their western trips.

The National Park Service is starting the improvement of these caverns, and the statement of the people of Carlsbad is to this effect: That $15,000, as carried in this bill, will not make the necessary improvements to put these caverns in shape for the tourists who desire to visit them and make it convenient and accessible. They claim the improvement of this monument is not being advanced as rapidly as the public demands it should be. The State of New Mexico has spent $2 to $1 appropriated by the Government up to this time.

I want to say to you in all sincerity that I am not asking anything from the Government in this appropriation that will not be returned to the Government. They have already outlined a plan whereby the money will be returned. They are charging the tourist who enters these caverns $3 for the services of a guide and for the inspection. The superintendent of the national parks informs me that it is the intention to charge the tourists who enter these caverns at least $2.

Gentlemen, if you will make the necessary appropriation and let these caverns be developed as they should be developed at this time, and as soon as it is possible to develop them, the people from the Lone Star State of Texas, which is only about 75 miles from these caverns on their western border, will send sufficient people to visit them to pay back this appropriation and all the appropriations which the Government will have expended in that direction.

These are wonderful phenomena that the American people are desirous of visiting. There should not be any delay in developing them and not carry this development along for a period of years. What should be done is to develop them as speedily as is possible so that the American tourist and the American lover of nature can go there and have proper conveniences in going through these caverns.

The Carlsbad Caverns have now reached that importance that the Government should not delay in placing these caverns in proper condition to be viewed by the American public.

They are no longer a local attraction to New Mexico or to the Carlsbad community, but they have been so well advertised by those who have been fortunate enough to see these marvelous stalactites and stalagmites in these mammoth underground caverns, where nature has fashioned its handiwork, that the Government ought not to lag in placing these caves in shape, to take care of them in the proper way, and to provide for those who desire to enter and enjoy this marvelous display.

The State generously donated the land where the caves are located to the Government, and since the Government has acquired title the State has continued to spend its money to develop the same. Ten thousand dollars additional will help very materially in handling these caves. It is very important that this development hasten along and not be delayed. The Budget Committee should at least spend as much as the State in bringing this great wonder before the American public. The people of the Nation are greatly indebted to Dr. Willis T. Lee for bringing so vividly to them the story of his exploration and discovery of the hidden beauty of these immeasurable caves. Many rooms have been discovered and there are many yet unexplored. Already 7½ miles have been explored and mapped.

The caves became the property of the United States September 19, 1925. These caves are situated in the Guadaluoe Mountains of New Mexico, 24 miles southwest of the town of Carlsbad, N. Mex. They consist of many chambers of great dimensions, filled with a wonderful display by the great artist, nature. I quote here a press description of the caverns:

A wonder world, hundreds of feet underground, with neither animal or vegetable life, yet overflowing with the beauties of nature. An underworld cathedral of nature filled with the most beautiful display of stalactites and stalagmitic formations it is man's privilege to behold. A startling wonder that has been silent and concealed for countless centuries, first discovered by James White and brought to the attention of the National Geographical Society by Dr. Willis T. Lee, who headed an expedition under the auspices of the National Geographic Society of Washington, D. C. Doctor Lee spent much time in exploring and mapping the caverns, and no doubt has more knowledge concerning this wonder than any other citizen or scientific individual.

E. Dana Johnson, editor of the Santa Fe New Mexican, says:

There are acres of frozen gardens, fantastic flowers in translucent marble, towering giant figures, brooding and sinister, slender minarets and spires, mushrooms 20 feet across. And always is the black mystery of other gigantic vaulted crypts and chambers.

C. L. Seagraves, general colonization agent of the Santa Fe Railway, says:

Word and pen pictures are insignificant when compared to the real thing. I am convinced that the beauties and grandeur of the Grand Canyon are no more wonderful than are the scenic beauties of the Carlsbad Caverns; a trip across the continent is not complete without a visit to this wonderland.

Dr. C. R. Crook, director Illinois State Museum, says:

So wonderful and instructive do I consider the Carlsbad Caverns that I have shipped large quantities of similar formations from caves in the vicinity to Springfield and intend to construct a miniature "Carlsbad Cavern" in the Illinois Museum.

Judge Adrian Poole, Texas, says:

The wonders of the Carlsbad Cavern can not be described by man.

Walter Murck, an artist who has painted scenes of the interior decorations, says:

How on earth can one find adjectives fit to describe it?

Ex-Gov. James F. Hinkle, of New Mexico, says:

It ranks with the wonders of the world; all the decorators in the world could not improve on the Carlsbad Caves.

Ex-Gov. Pat Neff, of Texas, says:

I thank you for showing me the greatest wonder of the world. I can not understand how a natural wonder could be so gigantic and beautiful without Texas having a hand in its making.

In closing let me ask, Why be so penurious in appropriating the money to make the caverns conveniently accessible and providing for the comfort of the many thousands of citizens who are desirous of visiting this wonder of nature? They await a call from the Government to the effect that the caves are open and properly equipped for a pleasant educational trip through the same.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

Mr. CRAMTON. Mr. Chairman, this national monument is this year given a consideration that has never been shown to any other national monument, in that an appropriation is being made exclusively for this one monument. For the current year $25,000 was given for the preliminary work of development and $15,000 is included in the current bill.

It is a feature, I understand, of great merit, but it seems to me the work is proceeding as rapidly as is to be expected, in view of the very great need there is in connection with the whole park service for more money than they are receiving.

It seems to me this monument has received consideration entirely equal to what it deserves, as compared with other monuments and parks, so I hope the amendment will not prevail.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from New Mexico.

The question was taken; and on a division (demanded by Mr. MORROW) there were—yeas 5, noes 42.

So the amendment was rejected.

The Clerk read as follows:

Construction, etc., of roads and trails: For the construction, reconstruction, and improvement of roads and trails, inclusive of necessary bridges, in the national parks and monuments under the jurisdiction of the Department of the Interior, $2,000,000, of which amount not to exceed $6,000 may be expended for personal services in the District of Columbia: *Provided*, That the Secretary of the Interior may also approve projects, incur obligations, and enter into contracts for additional work not exceeding a total of $1,500,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof, and appropriations hereafter made for the purpose of carrying out the provisions of the act approved April 9, 1924, and acts amendatory thereof and supplemental thereto shall be considered available for the purpose of discharging the obligations so created: *Provided further*, That no part of the sum herein appropriated shall be available for road construction in the Rocky Mountain National Park until the State of Colorado cedes to the United States exclusive jurisdiction over said park.

Mr. TAYLOR of Colorado. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Colorado offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Colorado: Page 98, line 23, after the word "created," strike out the remainder of the paragraph, including the first three lines on page 99.

Mr. TAYLOR of Colorado. Mr. Chairman, in support of my amendment I want to refer briefly back to the creation of this park by Congress in 1915. I have here a 75-page pamphlet copy of the hearings held by the House Committee on the Public Lands on the bill establishing this Rocky Mountain National Park. Those hearings were held on December 23, 1914. I introduced the bill in the House and as a member of that committee was in charge of those hearings, and in support of the bill I introduced four Governors of Colorado—the then Governor Ammons and Governor-elect Carlson and former Governors Thomas and Shafroth, both of whom were then United States Senators. I also introduced a very forcible and lengthy letter to me from former United States Senator Thomas M. Patterson; and I also presented hundreds of resolutions, letters, and other indorsements, including a memorial from the Colorado General Assembly; also Enos Mills and several other witnesses appeared. They made a most elaborate and strong showing in behalf of the park. The committee authorized me to report the bill to the House, which I did with a 48-page printed report, a copy of which I have here. I called up the bill on unanimous consent Monday, January 18, 1915—11 years ago next Monday—and there were 18 pages of debate and insertions on the bill, extending from page 1788 to page 1806 of volume 52, Sixty-third Congress, third session, part 2. The bill was passed by the House by unanimous consent and President Wilson approved and signed it on January 26, 1915, and presented me the pen he used in creating the park.

I make this detailed reference to the matter to assure the House of my personal knowledge of the history of this park, and also because I do not recall that there is a soul on the floor to-day who was present at that time. Senator Charles S. Thomas introduced the bill in the Senate and passed it through that body. He was also present on the floor of the House during the debate here, and he remembers all the facts perfectly. The Members all, I think, fully appreciated the great importance of this park, but there was very general and serious opposition to the creation of any more parks at that time on account of the additional expense, and as a condition precedent to allowing the bill to pass I had to, and did, agree to three things, namely: First, to allow the bill to be amended limiting the appropriations for the park to $10,000 a year until otherwise provided by Congress; second, that the State and local authorities would complete the Fall River Road; and, third, that the State would cede to the Federal Government whatever authority and jurisdiction was properly necessary for the orderly management of the park.

At that time the Interior Department officials recommended that we should receive the entrance fees and receipts from licenses and concessions and all other emoluments derived from the park. But soon after that the department decided that that was not a good fiscal policy, and because the park was deprived of those receipts we passed a bill several years after removing that limitation of $10,000 a year upon the appropriations for that park, and this bill carries $87,000 for the maintenance of this park during the next fiscal year. As to the second requirement, the State has complied with that and built and completed the Fall River Road. They have spent a vast amount of money on it, and they have built a much better road than they ever expected they would be required to build under my agreement. However, there is no contention about that matter now. That requirement has been complied with. As to the third requirement, to formally cede jurisdiction to the Federal Government, Colorado has not yet carried out my agreement.

Our idea was to turn that marvelous region over to the United States Government as a real, great national park. I was asked a great many questions on the floor of the House at the time of the passage of this bill. One of them was by Mr. Moore, of Pennsylvania, which, together with my answer, appears on page 1791 of the CONGRESSIONAL RECORD of that date, as follows:

Mr. MOORE. Now, one further question. I am still seeking information. Why is it that the State of Colorado does not take care of this park itself?

Mr. TAYLOR of Colorado. Well, there is very little use of our discussing that question, because, in the first place, Congress would not under any circumstances cede that territory to the State. It would be wrong for the Government to ever surrender title to that territory. Secondly, Colorado has a large number of beautiful parks. Half of the State is composed of mountain parks. We have three times as much mountain scenery in our State alone as there is in the entire Swiss Nation. Our State does not want this as a local State park. We want the Nation to have this marvelous region, so the entire population of the United States will feel a proprietary interest in it. We prefer to surrender jurisdiction over the territory to the Federal Government and let the entire world feel at liberty to come there as the guest of Uncle Sam.

So that was really the understanding, and, frankly, I do not know why that cession has never been made. I think it is purely an oversight. Certainly no one in my State has ever thought of not keeping faith with the Federal Government. I believe the reason is very few people in the State know about that requirement of the national parks. Possibly I may be

somewhat to blame myself for not having called the attention of the Colorado Legislature to the matter. I think I should have done so. I just assumed that the public knew it, and overlooked it myself. However, it is not at all the fault of the people of the State of Colorado. No one has ever asked the legislature to make this cession that I know of. Possibly the Bureau of National Parks should have done so. It just has not been attended to in Colorado. The park is a wonderfully popular park in our State, and nobody would want to do anything to jeopardize its development.

If this clause remains in the bill it has the effect of preventing any road work in the park during the next fiscal year. It would deprive our State of the benefits of the allotment of $140,000 to the park for this coming year. Therefore I feel it would be an unwarranted and wholly unnecessary hardship upon the State and the park development for this provision to remain in the bill. I have written the situation fully to Senator PHIPPS and the attorney general, who are in Denver now, and they have promptly taken the matter up with the governor, and the governor of the State and the attorney general have just sent a telegram here to my colleague [Mr. VAILE], who represents the Denver district, as follows:

DENVER, COLO., *January 8, 1926.*

Hon. WILLIAM N. VAILE,

Congressman, Capitol Building, Washington, D. C.:

Conference held on this day with Governor Morley at his office with Senator Phipps; Secretary of State Milliken; Mr. Paul Lee, of Fort Collins; Charles Roach, deputy attorney general; and W. L. Boatright present. Governor Morley issued an executive order directing the attorney general to dismiss at once, without prejudice, the action of the State of Colorado against Roger W. Toll, superintendent of the Rocky Mountain National Park, which will be done at once. Governor Morley agrees to submit to the incoming legislature for their action the question of ceding to the Federal Government the highways in the Rocky Mountain National Park. The above action was taken as the best judgment of all present in said conference, except Mr. Lee, who is special counsel in said case. Advise TAYLOR, TIMBERLAKE, and HARDY.

CLARENCE J. MORLEY, *Governor.*
WILLIAM L. BOATRIGHT, *Attorney General.*

I feel that this very positive assurance is abundantly sufficient to satisfy the House that the State has not repudiated anything and has no thought of doing so, and will promptly comply with the regulations in this matter, and that we ought not to inflict this hardship upon the park but should allow this appropriation to go on for the current year and rely upon the State of Colorado at the next session of its legislature, in January, 1927, to cede to the Federal Government the proper authority the same as the States of California, Oregon, Washington, Montana, and Wyoming have done, I understand, to the national parks within their borders, as to the roads and the game and fish.

Therefore, I hope the chairman of the committee will not seriously object to the elimination of this clause for the next fiscal year, and will rely upon Colorado and her officials to see that this condition is rectified before the next annual appropriation bill is drawn.

Mr. MORROW. Will the gentleman yield for a question?

Mr. TAYLOR of Colorado. Yes.

Mr. MORROW. Is all the land in this park still the property of Colorado?

Mr. TAYLOR of Colorado. Oh, no; not at all. That territory was nearly all in a forest reserve before it was made a national park. It was not owned by the State. The land itself never belonged to the State. There is some land in private ownership now, and that condition has not been changed much, if any, since the park was created. There has been some effort to exchange some of that private land and get them out of the park, but they have not yet got through with that.

Mr. MORROW. How much of the present area that is included in the park is still the property of the State of Colorado?

Mr. TAYLOR of Colorado. None of it. The State, never having surrendered jurisdiction over that region or over the roads or the game or fish, or formally released any of its authority over the lands or anything else in the park, still retains a certain amount of authority. I will not attempt to say how much.

Mr. MORROW. Who owns it—the Government?

Mr. TAYLOR of Colorado. Yes; the Federal Government owns the land, except some private holdings that were there before the park was created and are there yet, nearly all of them.

Mr. MORROW. If the Federal Government owns it, why would the Legislature of the State of Colorado have to act in conveying it?

Mr. TALYOR of Colorado. A controversy arose over the granting of an exclusive franchise or permit by the park service to carry passengers through the park, and suit was brought in the United States district court to test that authority of the park service. The case was carried to the United States Supreme Court, which rendered a decision on the 11th of last May, reversing a decision of the district court in favor of the park service and remanding the case for trial largely upon the question as to whether or not the State had formally and officially surrendered its jurisdiction over the roads in that park; that is, the roads that had been built over the public lands by the State and the counties. I will not insert that decision in the RECORD, because it is too long, and I think it is unnecessary, because the case is now dismissed. I am in hopes and believe that some of the regulations that lead to that litigation may be amicably adjusted, but in any event we feel that the State should give the Federal Government whatever jurisdiction is necessary to properly maintain and exercise its lawful authority within the park. It will not do to have a conflicting or divided authority over park matters.

I want to say further that my colleagues, the gentlemen from Colorado [Mr. TIMBERLAKE and Mr. VAILE], have both of them always been very diligent in the support of this park. We have all of us worked together on it for many years, and it is one of the idols of the Centennial State, and we hope no action will ever be taken by Congress to throw any impediment in its rapid development. There are more people who visit this park every year than any other park in the United States. About a quarter of a million people visited the park this last season, and the number is rapidly increasing every year.

Mr. CRAMTON. Mr. Chairman, the statement the gentleman from Colorado [Mr. TAYLOR] has just made, of course, is entirely correct. There is a large attendance of people at this park. Its proximity to centers of population, like Chicago, St. Louis, Kansas City, and so forth, brings about a large attendance, and it would be greatly to be regretted if the proper development of the park could not go forward.

The development of it, however, has not gone forward heretofore as it ought to, because there has been surrounding the park the most unfriendly, unappreciative, unhelpful public sentiment that has surrounded any national park. The great mass of the people of the State no doubt feel as the gentleman has just suggested, entirely friendly toward the park and proud of it, but they have permitted a few trouble makers from the very beginning to monopolize the spotlight, with the result we find a very undesirable situation.

In the first place, inside the park we own approximately, and roughly speaking, the scenery, but wherever there is any land on which development could go forward for the convenience of tourists some private interests own it. If you drive your automobile into the Yellowstone Park, you are permitted to camp anywhere in that park, unless it is some place that will obstruct some wonderful view; but if you drove into the Rocky Mountain National Park in your flivver and you wanted to set up your camp, there is a sign at almost any place you would want to go, "Private property; keep off." When we constructed recently an automobile camp for public convenience we had to buy some of this privately owned land. In other words, we own the scenery, but if we want to develop the park in any way we have to buy somebody's private holdings, and every time we go forward with a development we increase the price of the remaining holdings, so we will have to pay more later for the land that we will need hereafter. This is the first trouble with the park, and it is highly important that the privately owned lands should be either eliminated from the park or purchased.

I am not talking about property that has been highly developed like certain hotel property; I am talking about the undeveloped private holdings in the park. There ought to be some way to secure them. I ventured to suggest when in the park this year—and I spoke as frankly to the people at the chamber of commerce dinner as I am speaking here—that we should have cooperation so that Congress might work with them.

The reason for putting this proviso into the bill is this: The State did build the Fall River Road, which is vital to the administration of the park. The State built it and it was one of the conditions of the establishment of the park; but recently a suit has been brought in the name of the State of Colorado claiming that the Federal Government does not have

control of that road. It was built on Federal-owned land. It was built for the purpose solely of securing a national park, but the State has permitted its name to be used in the institution of the suit, claiming the control of the road is in the State and claiming that the park authorities can not exercise supervision over it.

If the suit should prevail, administration of the park along proper lines would be impossible, and would make possible conditions that the Federal Government can not contemplate. And we have felt that that condition ought to be disposed of; it ought to be made clear that the Federal Government is supreme in the national park, so that it can proceed with its administration along proper lines.

It seemed to the committee that before we proceed with the expenditure of $400,000 which is needed for improvement of that road, it seemed to the committee that before we spent $400,000 to put that road in proper condition, we should know whose road it is.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CRAMTON. I ask for three minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CRAMTON. If the road belongs to the State of Colorado the State ought to expend the $400,000. If they want us to spend $400,000 it ought to be made clear that it is our road. Hence this limitation as to the provision that no further money should be expended on the road until control is ceded by the State.

The recent developments are as the gentleman from Colorado has indicated. I am advised by the National Park Service that the suit in question has been discontinued by the State of Colorado and the statement that the governor made has been carried out to that extent. I have not the slightest question but that the Governor of Colorado will proceed to do the other things that he has suggested—that when the legislature meets he will seek legislation that will make clear Federal control over the road. That will take care of the road situation. I hope he will go further and do the other things such as has been done in Wyoming and other States, cede the exclusive jurisdiction to the Federal Government. There are certain things in the parks that ought to have different regulations than in the balance of the State. Take the matter of fish, for instance. I hope the State will dispose of the whole situation. In the meantime I have no objection to the amendment of the gentleman from Colorado and I am sure the committee will have no objection, because the development of a desire on the part of the authorities to meet us and work the thing out. I may say that while we were there we found that many influential people desired to cooperate with the Government, and I think the conditions are the best there now that they have been at any time. I think I should say further that, in my judgment, there can not be any actual expenditure of funds on that road during this calendar year—not the fiscal year but the calendar year—and soon thereafter we hope control will be actually given to the Government. I do not think there can be for the reason that this fund is one in great demand and it has been so far allocated that I do not think there is any money available for the calendar year 1926 for Rocky Mountain although there may be in the fiscal year 1927.

Mr. VAILE. Mr. Chairman, I move to strike out the last word. I am very glad that my colleague [Mr. TAYLOR], who is a veteran on this subject, has given the committee the history of the Rocky Mountain National Park. He is familiar with every detail of it. He was a tower of strength for us when it was created. I want to confirm particularly one thing he said by referring to a recent conversation which I had with ex-United States Senator Thomas, whose recollection is similar to that of Mr. TAYLOR. At the time the bill for this park was put through he had charge of it in the Senate, and he tells me that the agreement there also was that jurisdiction should be ceded to the United States.

We have not any quarrel with this provision except that we do not think it should be applied in this case on account of the recent action by the Governor and attorney general of Colorado, to which reference has been made, and we wish to thank the chairman for meeting us halfway by agreeing that this limitation may go out.

However, I do want to refer to the use of this kind of a provision generally in appropriation bills. As I say, it may be all right in this particular instance, and I think perhaps it has served a useful purpose in bringing this particular matter to the attention of the House and promoting an equitable adjustment, but is a form of compulsion—I do not like to use the word "duress," because it seems a little harsh—upon the States or upon individuals to make them do something which we think they perhaps ought to do and which they may think, with good reason, that they they ought not to do. The gentleman from Nebraska [Mr. SIMMONS] made a very resolute fight the other day to have a similar limitation taken off of the appropriation for the North Platte Nebraska-Wyoming reclamation project. It was provided in the bill that that appropriation should not be available unless some State or district official or somebody else did such and such things.

But the making of such limitations seems to be an established policy; and if it is, then I respectfully submit that there is a place in the bill where it should have been applied, and that is on page 27, where we provide for the construction of the Coolidge Dam across the canyon of the Gila River near San Carlos, Ariz., as authorized by the act of June 7, 1924.

There it would have been useful if we had put in a proviso that no part of the sum therein appropriated should be available for the construction of such dam until the State of Arizona ratifies the Colorado River pact. That reclamation project was created by the act of July 7, 1924, and went through by unanimous consent, because the rest of the Western States had an understanding, and my recollection is that it was induced—at least it was not discouraged—by the gentleman from Arizona [Mr. HAYDEN], that when Arizona got that very large allowance of water, Arizona would come in and be a party to the working out of a big system in respect to the use of the waters of the Colorado River, which would cover all of the States. They got the matter through by unanimous consent in this House and got their dam built; and then, although the gentleman from Arizona [Mr. HAYDEN] acted as he always does, in the utmost good faith, a lot of his folks down there could not see it in that way. They could not see why Arizona should join in the ratification of the compact, and they are laughing quite a good deal at Colorado and Utah and Wyoming and the upper States. What they say now is that they have got what they wanted, and that they have got it without giving any consideration, and that the upper States can go to the devil. Now, we did not ask to amend the bill by applying such a limitation to the San Carlos reclamation project, because we did not want to work a hardship on the Indians who have lands under it. And the upper States wanted to be generous, even if some of their neighbors were not; but the time is coming when, if such compulsion as Congress applies in other portions of this bill is to be applied at all, we shall ask that it be applied to make our great neighboring State of Arizona see things in a light a little more consistent with the conduct of a good neighbor. My remarks are not directed to my colleague from Arizona [Mr. HAYDEN], because I know his attitude in regard to the pact. I know that he has been diligent in his efforts to promote a just and equitable settlement of that problem, and I believe that his constituents will yet be brought to see that problem in the sane and reasonable way in which he sees it.

Mr. CRAMTON. Of course, the gentleman would fully agree with us that, before we expend $400,000 on a road, we ought to know that it is our road—referring to the matter under consideration.

Mr. VAILE. Oh, entirely.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado.

The amendment was agreed to.

The Clerk read as follows:

Education in Alaska: To enable the Secretary of the Interior, in his discretion and under his direction, to provide for the education and support of the Eskimos, Aleuts, Indians, and other natives of Alaska, including necessary traveling expenses of pupils to and from industrial boarding schools in Alaska; erection, repair, and rental of school buildings; textbooks and industrial apparatus; pay and necessary traveling expenses of superintendents, teachers, physicians, and other employees; repair, equipment, maintenance, and operation of United States ship *Boxer;* and all other necessary miscellaneous expenses which are not included under the above special heads, including $245,500 for salaries in the District of Columbia and elsewhere, $14,000 for traveling expenses, $118,100 for equipment, supplies, fuel, and light, $13,000 for repairs of buildings, $47,000 for erection of buildings, including necessary expenses incident to the acceptance by the Secretary of the Interior of donations of sites for school buildings at Juneau and Ketchikan, Alaska, $35,000 for freight, including operation of United States ship *Boxer,* $4,000 for equipment and repairs to United States ship *Boxer,* $2,400 for rentals, and $1,000 for telephone and telegraph; total, $480,000, to be immediately available: *Provided,* That not to exceed 10 per cent of the amounts appropriated for the various items in this paragraph shall be available interchangeably for expenditures on the objects included in this paragraph, but no more than 10 per

cent shall be added to any one item of appropriation except in cases of extraordinary emergency and then only upon the written order of the Secretary of the Interior: *Provided further,* That of said sum not exceeding $7,000 may be expended for personal services in the District of Columbia: *Provided further,* That all expenditures of money appropriated herein for school purposes in Alaska for schools other than those for the education of white children under the jurisdiction of the governor thereof shall be under the supervision and direction of the Commissioner of Education and in conformity with such conditions, rules, and regulations as to conduct and methods of instruction and expenditures of money as may from time to time be recommended by him and approved by the Secretary of the Interior.

Mr. TREADWAY. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question. I am somewhat confused as to the meaning of two phrases here. One is on page 100, and reads—

including $245,500 for salaries in the District of Columbia and elsewhere.

Then on page 101, line 15, we find the language:

Provided further, That of such sum not exceeding $7,000 may be expended for personal services in the District of Columbia.

It would seem to me that the first clause would indicate that any part of the $245,500 can be expended within the District, and the latter clause that only $7,000 can be expended here. I think the $480,000 item alone is a very large one, and if half of it can be expended for salaries in the District of Columbia, we ought to have that information. If it is only $7,000, then there is a different situation.

Mr. CRAMTON. Mr. Chairman, I am very glad indeed that on one matter pertaining to Alaska the gentleman from Massachusetts and the rest of us can agree entirely. There is no doubt but that $245,500 is the limit that can be expended for salaries in the District of Columbia and elsewhere, and that of that $245,500, $7,000 is the limit that may be expended within the District. That is the intention of the committee, and I think we have made it clear.

Mr. TREADWAY. I am glad to have the explanation of the gentleman and withdraw the pro forma amendment.

The Clerk read as follows:

The Alaska Railroad: For every expenditure requisite for and incident to the authorized work of the Alaska Railroad, including maintenance, operation, and improvements of railroads in Alaska; maintenance and operation of river steamers and other boats on the Yukon River and its tributaries in Alaska; stores for resale; payment of claims for losses and damages arising from operations; payment of amounts due connecting lines under traffic agreements; payment of compensation and expenses as authorized by section 42 of the injury compensation act, approved September 7, 1916, to be reimbursed as therein provided, $1,700,000, in addition to all amounts received by the Alaska Railroad during the fiscal year 1927, to continue available until expended: *Provided,* That not to exceed $6,200 of this fund shall be available for personal services in the District of Columbia during the fiscal year 1927: *Provided further,* That $500,000 of such funds shall be available only for such capital expenditures as are chargeable to capital account under accounting regulations prescribed by the Interstate Commerce Commission, which amount shall be available immediately.

Mr. TREADWAY. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. TREADWAY: Page 105, line 11, after the word "provided" strike out "$1,700,000" and insert "$1,200,000"; also, strike out after "1927" in line 16, page 105, the rest of the paragraph.

Mr. TREADWAY. Mr. Chairman, this is not one of those meek appropriations that the chairman referred to the other day. This is a very large appropriation, $1,700,000, and I ask the careful consideration of the House in connection with this item. I realize that the Government wasted $60,000,000 in constructing the Alaskan Railroad. We have talked that here before, and it is generally accepted, I think, that it was a very serious blunder upon the part of the Government to have appropriated that money or to have constructed that road. Having spent $60,000,000, I realize that there must be an appropriation annually for a deficiency sure to arise. The time will never come when the Alaskan Railroad can be self-supporting. There is here an item of $1,200,000 for that deficiency. I am not asking to remove that item from the bill, but I do say that we ought not to continue putting good money after bad, and increasing the capital expenditure. You are asked in this item now for $500,000 more for capital construction. I maintain that we ought to get to the bottom of this Alaskan question before capital construction is continued along the line of the Alaskan Railroad. I say frankly to the House that I have not expected that any of the amendments that I have offered cutting down Alaskan appropriations, as recommended by the Committee on Appropriations, would be adopted.

I realize we have got to go to the bottom of Alaska legislation before anything can be accomplished to improve conditions there, but I do say that we have no right to take from the pockets of Uncle Sam $500,000 for additional capital construction on that line of road. I know what it means. Every man up there who has got an acre of coal land or any other kind of land wants you to build a line of road to that field. Now, that is not good business; that is not good judgment; that is not a good way to expend our taxpayers' money. I maintain, Mr. Chairman, we ought to sift this Alaska problem to the bottom before we continue capital construction on the line of the Alaskan Railroad, and therefore I think that the amendment I am offering should be adopted by the committee at this time.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. JOHNSON of Washington. Would the gentleman be quite willing to work for legislation that would let capitalists build their own railroads?

Mr. TREADWAY. I certainly would.

Mr. JOHNSON of Washington. But how can it be done if——

Mr. TREADWAY. I know that no capitalists are going to build a road, because there are no demands for it. I maintain, and Mr. TAYLOR, of the committee, agrees fully with the position which I take, that it was a waste of money ever to have built there and that the Pennsylvania or the officials of any other well-managed railroad never would have built the Alaska Railroad. But it has been done. The gentleman knows this line of 500 miles runs through the wilderness between two towns—one of 2,000 inhabitants and the other about the same.

Mr. JOHNSON of Washington. That is exactly what was said when the Union Pacific Railroad was built with Federal aid.

Mr. TREADWAY. There is no more comparison between the Alaskan situation than the comparison which some gentleman the other day undertook to bring up of the Panama Canal—no comparison whatsoever.

Mr. BLANTON. Will the gentleman yield?

Mr. TREADWAY. I will.

Mr. BLANTON. I take it this is a real amendment?

Mr. TREADWAY. It is a real amendment.

Mr. BLANTON. On which we will be called upon to vote?

Mr. TREADWAY. And I would like to see the gentleman vote and vote right.

Mr. BLANTON. And the gentleman is not going to withdraw it?

Mr. TREADWAY. I was following the example of the gentleman from Texas in withdrawing one or two. He is a leader of the House, acknowledges it himself, and when he offers an amendment and withdraws it some of the rest of us only follow suit. This is an amendment to which I think the committee can give real consideration, whether it is worth while to continue this extravagant expenditure on the line of the Alaska Railroad, of which $500,000 is for capital construction. I am opposed to it.

Mr. CRAMTON. Mr. Chairman, I agree with the gentleman from Massachusetts [Mr. TREADWAY] that this is a matter that deserves the serious consideration of the committee. I disagree with him in his statement that it is an extravagant expenditure that is proposed. The general manager of the Alaska Railroad, Mr. Noel W. Smith, is an experienced railroad man. He has not only won the confidence of our committee as to his business judgment and his judgment in matters pertaining to railroad operations, but I understand he has won the confidence of the gentleman from Massachusetts in an equal degree.

Mr. TREADWAY. Absolutely; he is one of the most practical railroad men I have ever heard of.

Mr. CRAMTON. So far we are in agreement. I think we can go further in agreement than that.

Mr. TREADWAY. I hope so.

Mr. CRAMTON. The question as to whether the Alaskan Railroad ought to have been built is not before our committee. It is there as a running concern, and the gentleman approves of the appropriation of $1,200,000 to meet the deficit in operation and maintenance, but objects to the $500,000, so there is a place we for the moment disagree, but I am in hopes after I have finished we may be in agreement and that the gentleman will, notwithstanding the appeal of the gentleman from Texas, withdraw his amendment.

Mr. TREADWAY. I am only in accord with the gentleman so far as the $1,200,000 is concerned in considering it is temporary only.

Mr. CRAMTON. And as a necessity which has to be met.

Mr. TREADWAY. For the time being, but I am not in favor of the $500,000 for capital construction of the Alaskan Railway.

Mr. CRAMTON. But the necessity of the case means that until Congress takes some different action the Appropriations Committee must report the items deemed necessary to keep it in running order.

Now, the gentleman is in this error: He has not understood what that $500,000 is for. He visions the building of extensions here and there all over that territory. That is not the purpose of it at all. This item is just what, it has seemed to me, business men such as the gentleman from Massachusetts would approve. Mr. Smith, the general manager, explained the item in this way: This is a part of an item of several million dollars of expenditure entered upon a year ago, not for extensions of the system but for certain betterments. This $500,000 is to be used for bridges, trestles, culverts. the widening of fills, riprap and bank protection, fuel and water stations, replacements, roadway tools, telegraph and telephone lines, additional tracks, buildings, and miscellaneous—a total of $500,000. Each of these items is explained here. Lack of time prevents the reading of all of it; but Mr. Smith, whose judgment was approved by the gentleman from Massachusetts [Mr. TREADWAY] and myself, says:

> There are many instances where bridge renewals are absolutely essential to the safe operation of the railroad and if made will reflect a saving in future maintenance and operation cost. The principal reasons for these bridge renewals are to prevent danger of loss of life and property due to fire and also high waters in the spring or fall. Under existing circumstances the driftwood brought down by swollen streams accumulates against the piling and, as has frequently happened in the past, the water is dammed to such an extent that the bridges have been materially damaged and in some instances washed away. If steel spans or plate girders are substituted, sufficient clearance will be given to allow proper passage of the driftwood. Attention is further called to the fact that in many instances the wooden piers and abutments are constructed of native spruce timber. This timber is subject to rapid deterioration, presenting not only a heavy expense for annual maintenance but a risk to safe operation. In the removal of the driftwood to prevent destruction of bridges during periods of high water a dangerous and costly operation is necessary and necessitates the dispatching of man and cranes to the bridges. There have been times when it has been necessary to call a crew from some other work at a distant point to take care of the emergency. An estimated saving of 8.36 per cent can be made on this investment in future maintenance and operation costs.

He points out that in many instances the wooden piers and abutments are of native spruce timber and subject to deterioration. You will observe that his estimate of the saving that can be made, 8.36 per cent, is as exact as any Massachusetts business man would want it to be. Then he concludes as follows——

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CRAMTON. Mr. Chairman, I ask for three additional minutes.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to proceed for three additional minutes. Is there objection?

There was no objection.

Mr. CRAMTON. This is recommended by the able business man at the head of the operation of the railroad:

> As has been pointed out before, this railroad can not be economically operated unless appropriations are made to be applied to capital account, which will result in reducing maintenance and operating cost in future years. To continue operating the road, making replacements in kind, and not installing betterments necessary will result in a very high maintenance cost and in the final analysis result in much larger expenditures for upkeep. It is the desire of the management to maintain and operate this property on an economical basis, and the only logical method appears to be through installation of betterments and improvements, which will reflect a reduction in maintenance and operating costs.

The proviso that is put in is for the purpose of segregating this $500,000 so as to make it apply to that particular class of replacements.

I hope the amendment will not prevail. I hope the gentleman from Massachusetts will withdraw it, understanding that it is not for the extension of the line, but for these necessary improvements and replacements.

Mr. WINTER. Mr. Chairman, I desire to speak on the amendment.

The CHAIRMAN. The gentleman from Wyoming is recognized.

Mr. WINTER. For the first time in several days, Mr. Chairman, I find myself in accord with the committee. The gentleman from Washington [Mr. JOHNSON] called the attention of the gentleman from Massachusetts [Mr. TREADWAY] to the character of the country through which the Pacific railroads were constructed. The gentleman from Massachusetts says that the comparison is not valid and that the two areas, Alaska and western United States, are not comparable. I want to remark that a very able man from Massachusetts—a real statesman, by the way [laughter]—on the 23d day of March, 1848, told the people of the United States from the floor of the United States Senate that the entire country contemplated to be received from Mexico as indemnity or purchased as territory for new States, after the Mexican War, including California, golden California, and all of New Mexico, out of which were afterwards carved wonderful Arizona, Utah, and Nevada, and parts of marvelous Wyoming and Colorado—that that entire area was not worth one dollar; that it was a barren waste, a desert inhabited only by Indians and wild beasts; that there was nothing there but shifting sands, alkali, and blizzards, that it would not sustain any more people than were there at that time under any system of cultivation the American race would ever submit to; that it was an affront to reason that this was indemnity. It was not worth a dollar. That was the language of Daniel Webster on the floor of the Senate on March 23, 1848.

I submit that the views of the distinguished Senator from Massachusetts at that time regarding the West were no more mistaken than are the views regarding Alaska of the gentleman from Massachusetts to-day. [Applause.]

Mr. SUTHERLAND. Mr. Chairman, Mr. Webster's ignorance of conditions in the remote West at that time was excusable. He had never been there. In those days there were no geological reports on the conditions in that country. He had merely to guess. But there are Members of Congress who visited Alaska last summer who tell the President of the United States that there is no opportunity for agricultural and mineral development along the line of this railroad in Alaska for the reason that it is all of volcanic origin and formation.

The gentleman who gave the President this misinformation was not from Massachusetts. We have to-day the geological survey from which he could find out the authentic facts in a matter of that kind. The fact is that there is not an acre of volcanic formation within a hundred and thirty miles of the course of that railroad. The gentleman from Massachusetts is perfectly willing to aid private enterprise in the construction of Alaska railroads, and presumably in handling this railroad. I am naturally curious to know how he would do it. Would it be by direct subsidy from the Government? I do not think so. I do not think Congress would consider a proposition of that kind for a moment. Would it be by a land grant? If you undertake to submit a measure to this Congress providing a grant of land to a railroad in this day and generation you will immediately see how far you will get with it. When you propose to give the lands there, including coal lands, to private interests, you will have a controversy arising all over the United States, and nothing will be done along that line. There are Government utilities which by reason of the operation of economic laws have to be operated by Government.

They can not be operated by private individuals. You may take the case of the Canadian Northern Railroad. It is very evident that that road could not be successfully operated by individuals, so the Canadian Government takes it over and operates it, and the operating deficit is borne by the entire Government of the Dominion of Canada.

I want to direct attention to another great public utility in private hands that has not been successful, and for many years Members of Congress have been praying that the National Government would take it over and maintain it. I refer to the Cape Cod Canal.

Mr. TREADWAY. Before the gentleman leaves the Alaska Railroad and gets back to Massachusetts will he yield for a question?

Mr. SUTHERLAND. Yes.

Mr. TREADWAY. Does the gentleman think he can visualize the line of the Alaska Railroad as ever being of any great use in the way of serving the public or in reaching various developments there?

Mr. SUTHERLAND. Oh, Mr. Chairman, that was Mr. Webster's opinion in 1850 when he was discussing the Pacific coast.

Mr. TREADWAY. Let us not talk about that but the Alaska Railroad.

Mr. SUTHERLAND. The same conditions obtain to-day that obtained in Mr. Webster's day.

Mr. TREADWAY. Not in the slightest degree.

Mr. SUTHERLAND. With regard to population. It is to be presumed there will be a large population on the line of that railroad and there is every reason to believe there will be.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. SUTHERLAND. Yes.

Mr. JOHNSON of Washington. Is it not quite possible that the Alaska Railroad is worth while being maintained liberally by the United States Government as a warning against Government ownership of railroads?

Mr. TREADWAY. I will agree with the gentleman about that.

Mr. SUTHERLAND. The same thing might apply with reference to the Cape Cod Canal. That might apply as a warning against the Government operating a public utility. Now, I have not the slightest question in the world that if the stockholders of the Cape Cod Canal could be guaranteed sufficient in tolls to maintain the canal and pay interest on their stockholdings there would be no desire on the part of those people or the Members from Massachusetts to have that project taken over by the Government. But the proposition is that it is a great utility and one that can be made an even greater public utility if its operating expenses are carried by the Federal Government, and the amount required to do that would be infinitesimal because it would be borne by each individual taxpayer of the United States, which is the theory of Government ownership of public utilities, such as those I am speaking of, that it is for the benefit of the whole people. So, as I say, there are conditions which arise whereby it is the better part of wisdom and better business for the Government to operate the utilities than for a private individual to do so. I presume that is the reason why the gentleman would say that the Federal Government should take over, maintain, and operate the Cape Cod Canal.

The CHAIRMAN. The time of the gentleman from Alaska has expired.

Mr. TREADWAY. Mr. Chairman, in spite of the very persuasive argument of the gentleman from Michigan, asking for the withdrawal of the amendment I have proposed, I can not yield to that solicitation on his part. I think it would be very advisable to have a vote on this amendment, not with the view of its adoption but with the idea in mind that we have accomplished something. We have directed attention to the need of a reorganization in Alaska. This is the last item; it is the largest Alaskan item and it is the one wherein the House can well express its views as to the needs of a general reorganization of the whole government of Alaska, and that has been my purpose throughout this debate.

Mr. CRAMTON. Will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. CRAMTON. Does the gentleman think that even if this House thought there ought to be a general reorganization of the Government in Alaska that that should be a basis for crippling the operation of this railroad?

Mr. TREADWAY. Well, as I say, it is the largest item, and it is one wherein we can better call attention to the mismanagement up there, perhaps, than any other item. The items relating to Alaska are scattered throughout various appropriation bills, and unless attention is called to them as they come along there is no opportunity to accomplish anything in the way of reorganization. It seems to be universally agreed in the House that the organization having to do with the management of Alaska should be changed in some way. It is to center attention upon the situation that I have brought up these various amendments.

Mr. CRAMTON. And, if the gentleman will yield further, it is one item wherein the gentleman frankly admits the management is 100 per cent perfect.

Mr. TREADWAY. The management of the Alaskan Railroad, as I have said several times on the floor, is in most excellent hands, but that does not take away the fact that the Alaskan Railroad is a burden on the taxpayers of the country and one that we ought not to continue.

Mr. BLANTON. Will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. BLANTON. I take back what I said about the gentleman not standing hitched. [Laughter.]

Mr. TREADWAY. Then next time I suggest that the gentleman stick by his own amendments.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts.

The amendment was rejected.

The Clerk read as follows:

TERRITORY OF HAWAII

Governor, $10,000; secretary, $5,400; in all, $15,400.

For contingent expenses, to be expended by the governor, for stationery, postage, and incidentals, $1,000; private secretary to the governor, $3,000; for traveling expenses of the governor while absent from the capital on official business, $500; in all, $4,500.

Mr. SEARS of Florida. Mr. Chairman, I move to strike out the last word, and I ask unanimous consent to proceed for five minutes out of order.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to proceed for five minutes out of order. Is there objection?

There was no objection.

Mr. SEARS of Florida. Mr. Chairman, I trust my remarks will not be misconstrued as a criticism of the Department of Agriculture, because they have always cooperated with me. I realize that a public official should go rather slowly before criticizing any department, and during my 11 years of service I have never criticized the departments, because, as I stated, I have received their hearty cooperation.

A few months ago the Department of Agriculture estimated the citrus crop of the State of Florida at 19,000,000 boxes. I wired the Department of Agriculture stating that, in my opinion, the crop would not exceed 15,000,000 boxes, and that it was a poor guess at the outside and no living man could guess what the citrus crop of Florida would be. The Department of Agriculture had a reinvestigation made and issued another statement to the effect that there would be 17,000,000 boxes of oranges, or a drop of 2,000,000 boxes. In the meantime the price of oranges had dropped 75 cents a box, because of the supposed large crop. About a month afterwards we had the October storm, and it is estimated, according to information I have just received from the Florida Citrus Exchange, that over 300,000 boxes of oranges dropped, and that the crop will not exceed 14,500,000 boxes.

Unless this is corrected it will mean a loss of over $2,000,000 to the citrus growers of the State of Florida. The Department of Agriculture is supposed to-day to send to Florida a representative to make another investigation and make another report, but long before that report can be published the producer, as is usually the case, will have lost his $2,000,000 to $5,000,000.

The apple growers, the corn growers, and the wheat growers of the country can realize and appreciate what this means to the producer. Those who understand the citrus industry know it is impossible for any living man to guess what a crop will be. Going through groves of thousands of acres and hundreds of thousands of trees, with oranges of different sizes, different numbers of oranges on the trees, each orange that is pierced by a thorn dropping off, you can not come within 4,000,000 boxes of a proper estimate. If the Department of Agriculture had estimated the crop at 15,000,000 boxes as per my first request, they would have saved the citrus growers of the State of Florida more than $2,500,000.

I sincerely trust in the future the money of the people will not be uselessly spent in making these idle estimates and guesses at what nature will do and what the crop will produce. I sincerely trust the Department of Agriculture will wire the agent they sent to Florida and request and demand of him that within the next three days he wire to the country the exact condition of the crops and assure them that there will not be 19,000,000 boxes as per their first guess, not 17,000,000 boxes as per their second guess, but 14,500,000 boxes or less.

Mr. MORTON D. HULL. Will the gentleman yield?

Mr. SEARS of Florida. Yes.

Mr. MORTON D. HULL. I understood the gentleman to say it was humanly impossible to estimate the crop anyway.

Mr. SEARS of Florida. No living man can guess.

Mr. MORTON D. HULL. Then why does the gentleman want them to guess?

Mr. SEARS of Florida. I do not want them to guess. If I had my way, I would not send a single man out.

Mr. BLANTON. Mr. Chairman, I rise in opposition to the pro forma amendment. I simply want to use a minute or so to say that when a bureau or department needs defending I believe in defending it.

When the Department of Agriculture made an estimate on the cotton crop some time ago it was "cussed" from one side of the cotton region of the United States to the other for overestimating the crop, and the Department of Agriculture was accused of robbing our cotton farmers out of millions of dollars. Time has passed and a more accurate check up of cotton production has been made, and it has turned out that the estimate made by the Department of Agriculture, instead of being an overestimate, was an underestimate, and much of the early

cotton that was gathered and sold by the farmers, as they must nearly always do—they must sell it almost always as soon as they gather it—was sold at an increased price and they got the benefit of the underestimate made by the Department of Agriculture, and I have been wondering why these criticizers all over the country, who cussed out the department because they thought it had caused a loss to the farmers, have not come in and apologized to the department for their hasty criticism.

Mr. SEARS of Florida. Will the gentleman yield?

Mr. BLANTON. I yield, although I am through with my statement.

Mr. SEARS of Florida. As far as Florida is concerned, we do not ask them to underestimate the crops. We do not want to gain by it, but we do not want to lose by an overestimate, and I am not criticizing the department.

Mr. BLANTON. I was not criticizing our distinguished friend from Florida in the remarks I made, but I want to say to the people over the country that an estimate is, after all, an estimate. It can not be correctly given. The farmers ask for these estimates. The Department of Agriculture attempts to benefit the farmer by giving them out, and when they think the estimate is wrong they ought to wait to determine whether or not the Department of Agriculture has been in error before they begin to cuss out a great department which is really the one department of Government that seeks to benefit the producers of the country.

Mr. ARENTZ. Will the gentleman from Texas yield?

Mr. BLANTON. I yield, although I am through.

Mr. ARENTZ. I am wondering if we are going to request current reports or post-mortem reports. We have got to have some report. A delegation from Iowa is going to come here within a short time, and I think rightfully so, and ask for current reports on corn and other farm products, and we have either got to accept that or we have got to accept post-mortem reports, and I would like the gentleman to state which is best.

Mr. BLANTON. I think the current reports are best, and I think it is best to give them as the Department of Agriculture finds the facts to exist. If their agents make mistakes, the people over the country must take into consideration that the estimates, after all, are estimates and not facts stated as to actual production.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Legislative expenses: For furniture, light, telephone, stationery, record casings and files, printing and binding, including printing, publications, and binding of the session laws and the house and senate journals, indexing records, postage, ice, water, clerk hire, mileage of members, and incidentals, pay of chaplain, clerk, sergeant at arms, stenographers, typewriters, janitors, and messengers, $30,000: *Provided*, That the members of the Legislature of the Territory of Hawaii shall not draw their compensation of $200 or any mileage for an extra session, held in compliance with section 54 of an act to provide a government for the Territory of Hawaii, approved April 30, 1900.

The Clerk read as follows:

ST. ELIZABETHS HOSPITAL

For support, clothing, and treatment in St. Elizabeths Hospital for the Insane from the Army, Navy, Marine Corps, Coast Guard, inmates of the National Home for Disabled Volunteer Soldiers, persons charged with or convicted of crimes against the United States who are insane, all persons who have become insane since their entry into the military and naval service of the United States, civilians in the quartermaster's service of the Army, persons transferred from the Canal Zone who have been admitted to the hospital and who are indigent, and beneficiaries of the United States Veterans' Bureau, including not exceeding $27,000 for the purchase, exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles for the use of the superintendent, purchasing agent, and general hospital business, $804,000, including maintenance and operation of necessary facilities for feeding employees and others (at not less than cost), and the proceeds therefrom shall reimburse the appropriation for the institution; and not exceeding $1,500 of this sum may be expended in the removal of patients to their friends, not exceeding $1,500 in the purchase of such books, periodicals, and newspapers, for which payments may be made in advance, as may be required for the purposes of the hospital and for the medical library, and not exceeding $1,500 for actual and necessary expenses incurred in the apprehension and return to the hospital of escaped patients: *Provided*, That so much of this sum as may be required shall be available for all necessary expenses in ascertaining the residence of inmates who are not or who cease to be properly chargeable to Federal maintenance in the institution and in returning them to such places of residence: *Provided further*, That during the fiscal year 1927 the District of Columbia, or any branch of the Government requiring St. Elizabeths Hospital to care for patients for which they are responsible, shall pay by check to the superintendent, upon his written request, either in advance or at the end of each month, all or part of the estimated or actual cost of such maintenance, as the case may be, and bills rendered by the superintendent of St. Elizabeths Hospital in accordance herewith shall not be subject to audit or certification in advance of payment; proper adjustments on the basis of the actual cost of the care of patients paid for in advance shall be made monthly or quarterly, as may be agreed upon between the superintendent of St. Elizabeths Hospital and the District of Columbia government, department, or establishments concerned. All sums paid to the superintendent of St. Elizabeths Hospital for the care of patients that he is authorized by law to receive shall be deposited to the credit on the books of the Treasury Department of the appropriation made for the care and maintenance of the patients at St. Elizabeths Hospital for the year in which the support, clothing, and treatment is provided, and be subject to requisition by the disbursing agent of St. Elizabeths Hospital, upon the approval of the Secretary of the Interior.

Mr. BLANTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: On page 107, line 17, after the word "patient," add a colon and the following proviso, to wit: "*Provided*, That no part of the money appropriated by this paragraph shall be used to pay the salary of any Government official who shall enter into an agreement with criminals to testify in their behalf in consideration of which such criminals agree to pay substantial remuneration."

Mr. CRAMTON. Mr. Chairman, I make the point of order against the amendment that it is legislation.

The CHAIRMAN. It is evidently legislation.

Mr. BLANTON. Mr. Chairman, I would like to be heard a moment on that. I think the Chairman is reaching an unwise conclusion hurriedly.

The CHAIRMAN. The Chair is open to conviction, but would be glad if the gentleman from Texas would be brief.

Mr. BLANTON. If the Chair will notice the manner in which the amendment is drawn, it is clearly a limitation. The amendment will stand the test as a limitation under the rulings of practically every Chairman who has occupied that seat during the nine years I have been here. I have drawn it strictly in accord with such rulings on limitations. It merely provides that no part of this money shall be used for a certain purpose and it mentions the purpose for which it shall not be used. It is clearly a limitation.

I called the Chair's attention to a ruling made by former Speaker Clark—and there never has been a better parliamentarian—wherein he said that if Congress wants in a bill of this character to make a limitation to pay the salary only to a red-headed person it has the right to do it.

Mr. CRAMTON. That would be a limitation on the spending of the money. What the gentleman proposes is not a limitation on spending the money—the gentleman expects the money to be spent, expects them to have a superintendent—the limitation is not on spending the money, but it is on the discretion of the official.

Mr. BLANTON. O Mr. Chairman, I call attention to the ruling on the Hull amendment. That amendment provided that money appropriated in the naval bill and in the Army bill should be expended only in a certain way, to the men who performed certain kind of services, and could not be paid to any official who used a stop watch or who supervised men. It took all discretion away from certain officials. Yet many Chairmen occupying the position which the gentleman from Ohio now occupies held that that was in order as a limitation. And when the gentleman from Connecticut held that it was not in order appeal to the House was made against his decision, and the House on appeal held that it was in order as a limitation. We have the right to restrict the money that is spent in a bill to a certain character of employees. I am providing in this amendment that no Government official shall testify in court for a criminal under contract whereby they shall pay him money for so doing. I say that is a proper limitation. The precedents are complete; they are full, and the gentleman from Michigan is mistaken in making the point of order. If he is in favor of Government officials selling their testimony to criminals who ought to be hung, selling their testimony for $250 a day, let him vote this amendment down, but, for God's sake, let Congress stop that pernicious practice. I do not believe in it, and I do not believe there is a Member in the House who believes in it.

Mr. CRAMTON. Mr. Chairman, the effect of the amendment is not to lessen the expenditure of the money. The gentleman knows that the institution can not be run without the superintendent, who must be paid, but he proposes that the money shall not be paid if the superintendent does certain things.

I do not know what the law is; but if the superintendent has not the authority to do these things now, the amendment is a futility. If he has the authority now to do these things, then the effect of the amendment is to legislate and put new restrictions upon that official. In other words, in so far as the amendment can have any effect it would not be to bring about a less expenditure of money but a limitation on the discretion of the official.

Mr. CHINDBLOM. Mr. Chairman, may I make an observation? Mr. Chairman, it has been held—and the precedents are full of cases—that words like "until," "unless," "however," and like qualifying words, import legislation rather than limitation. The purpose of this amendment is to prescribe a course of conduct on the part of an official. If you can prescribe one course of conduct, you can prescribe another. If you can say that the salary shall not be paid an official who does so and so, then you can say that it shall not be paid if he does something else and something else, and so on ad infinitum.

Mr. BLANTON. That is the same argument that the gentleman from Illinois made when they offered the amendment to the Army bill to prevent any enlistment under 18 years of age, and yet the Chair held it in order. The gentleman's argument was made then against that amendment, and the Chair overruled it.

Mr. CHINDBLOM. I will distinguish that case from this one clearly. That was not a course of conduct prescribed for the official; that did create a class to which the limitation applied. I will say to the gentleman that I was opposed to the legislation and sought to reach it by a parliamentary point of order. This is altogether a different situation. It is very easy to prescribe and very easy to control the action of officials in regard to enlistment of men under 21 or 18 years of age, but when you say that officials must follow a certain course of conduct in the discharge of their duties you are no longer making a limitation, but legislation under the guise of a limitation.

The CHAIRMAN. There are several decisions on this subject—one the so-called stop-watch case, which I understand was decided by vote in Committee of the Whole to be in order. The Chair thinks, however, in this case that it is a limitation upon what the official may do, and, as argued by the gentleman from Michigan, if he has the right under existing law to accept such employment, to forbid such employment is a modification law, *and therefore* the Chair sustains the point of order.

Mr. BLANTON. Mr. Chairman, I move to strike out the last word. I want to call attention to the principle that was involved in my amendment which a point of order prevented the House from registering a vote upon. I sought to stop Dr. William A. White, Superintendent of St. Elizabeths Hospital, a Government institution, from selling his testimony to criminals for huge sums of money. I received the following from the Secretary of the Interior:

THE SECRETARY OF THE INTERIOR,
Washington, November 2, 1925.

Hon. THOMAS L. BLANTON,
House of Representatives.

MY DEAR MR. BLANTON: Your letter of October 30, 1925, has been received requesting certain information in relation to Dr. William A. White, Superintendent of St. Elizabeths Hospital.

In response thereto your questions will be answered in the order in which presented, to wit:

1. How long has Doctor White been connected with St. Elizabeths?

Since October 1, 1903; 22 years.

2. How long has he been superintendent of same?

The same length of time.

3. What salary does he now receive as superintendent?

Seven thousand five hundred dollars.

4. Besides his salary what emoluments does he receive?

Under the readjustment of compensation of officers and employees, St. Elizabeths Hospital, under the sundry civil act of July 19, 1919, Doctor White is allowed board, lodging, laundry, medical attention for self and family. Section 4839 of Revised Statutes requires the superintendent to live on the premises.

5. Is he furnished (a) his residence; (b) furnishings; (c) any servants; (d) his lights, heat, gas, and water?

Yes to all.

6. Is he allowed a specific traveling allowance; if so, what? He is entitled to the same allowances for travel as any other employee of the Interior Department, being governed by the travel regulations issued September 30, 1914, and amendments thereto; allowance is actual expenses not to exceed $5 per day, or $4 per day in lieu of subsistence.

7. How many assistant superintendents has he and their salaries? He has two assistants; one medical assistant, at $5,400, and one administrative assistant, at $5,200.

8. Does his employment contemplate that he shall give his entire time to the Government, or is he allowed to practice at will when he pleases? Under section 4839, Revised Statutes of the United States he is required to devote his whole time to the welfare of the institution.

9. What leave is he allowed each year? The same as any other public officer holding a similar position in the Government. Under departmental practice the superintendent of St. Elizabeths Hospital must secure the approval of the department for periods of absence from Washington. He is actually on duty during the regular office hours of the institution and is on call every hour of the 24.

Very truly yours,

HUBERT WORK.

You will note, Mr. Chairman and gentlemen, that Secretary Work says that the law requires Dr. William A. White to devote his whole time to the welfare of the institution.

And you will note that Secretary Work says that besides the salary of $7,500 that the Government pays to Dr. William A. White, that the Government also furnishes him, for himself and family, his residence, his furniture, his food, his servants, his lights, his heat, his gas, his water, his laundry, and medical attention, free of cost to him, for himself and family. He receives much more from the Government than does any Congressman in this House, or any Senator in the other end of the Capitol. But he does not comply with the law, for he does not devote all of his time to the welfare of the institution, as Secretary Work says the law requires him to do.

And note from Secretary Work's statement that Doctor White is allowed traveling expenses not to exceed $5 per day, or $4 per day in lieu of subsistence. But that means traveling in the interest and for the welfare of St. Elizabeths Hospital. It does not contemplate that he shall take trips to Chicago for the welfare of criminals.

When the noted lawyer for bad criminals, Clarence Darrow, was hired by millionaire fathers to keep the two high-browed murderers, Leopold and Loeb, from a just hanging at the gallows, he hired our Government official, Doctor White, at $250 per day to come to Chicago and testify his clients into a life sentence. I quote from the official records of said case the following answers Doctor White made to questions propounded to him by Prosecuting Attorney Crowe, to wit:

Question. Doctor, when is the first time you came to Chicago in this case?

Answer. The 1st of July is my recollection of the date.

Question. And how long a time did you remain in Chicago on that particular business?

Answer. I think it was about 10 days.

Question. You returned to Washington about the 10th of July?

Answer. I went to New York.

Question. Well, you left Chicago?

Answer. I left Chicago; yes.

Question. How much, if anything, have you been paid for that particular visit?

Answer. I have been paid at a per diem rate of $250 a day.

Question. Do you expect any more?

Answer. At the same rate.

Question. So for every day you have put in this case you expect $250 a day?

Answer. Yes.

Now, Mr. Chairman and gentlemen, if Dr. William A. White had been testifying, even for the Government, to uphold law and order and to protect society from educated murderers, he would not have had the right to leave his work in Washington and go to Chicago and spend a week or 10 days on this occasion and another week or 10 days on that occasion, and then go to New York for another trip, because his employment required his attention here, devoted to the interest of St. Elizabeths Hospital. God knows that there is enough important work for him to do out there. He had no right to thus sell his services to criminal interests for $250 per day.

Now, note that Dr. William A. White testified on the stand that for his first trip to Chicago he was paid $250 per day for 10 days, which, by the way, netted him the snug little sum of $2,500, and then he went on to New York. And then when he went back to Chicago to attend this famous trial of Leopold and Loeb he said that he was to get $250 more for each day he put in, and that, of course, meant each day away from Washington. But he does not say how much it all netted him.

On October 20, 1925, I wrote to Doctor White and asked him to—

please advise me exactly the sum you received for the first trip to Chicago and New York, and the sum you received for the trip to Chicago while attending the trial, and if you made other trips the exact sum you received for same.

And I asked him to give me a statement of the various trials in which he had testified for money and the amounts he received for each case.

On October 21, 1925, he sent me a very evasive reply, in which he said:

In the first place, I can not answer your questions in detail. My outside activities are so few that I am not justified in maintaining a set of books, and I therefore keep only a memorandum of them, which, after it has served its usefulness, I destroy.

He admitted, however, that in Chicago he was paid for as much as two weeks, and he says:

Of course, I feel, where some one wants my opinion and they have plenty of money to pay for it, that there is no reason why I should not charge for it.

I did not receive his letter of October 21, 1925, until October 23, 1925, and I immediately wrote to him again and requested that he give me a statement of the number of different cases in which he had testified for money, both in Washington and elsewhere, and the amounts of money he had received in such cases, respectively, and on the next day, October 24, 1925, I received the following reply from him, to wit:

DEPARTMENT OF THE INTERIOR,
ST. ELIZABETHS HOSPITAL,
Washington, D. C., October 24, 1925.

(Address only the Superintendent, St. Elizabeths Hospital)

Hon. THOMAS L. BLANTON,
House of Representatives, Washington, D. C.

MY DEAR MR. BLANTON: I have your letter of the 23d instant. I am very sorry that you feel as you do about my answer to your letter. I assure you I have been quite frank. A detailed statement such as you ask is absolutely impossible for me to make. My memory does not serve me, and, as I told you, I have no record to which I could refer. If my failure to remember the details of many years of active work is considered sufficient ground for a congressional investigation, then the investigation will have to go forward. I have nothing to conceal or evade. I have been able, in the years of my stewardship, to make out of this institution what an international authority said only a short time ago in visiting me, "the best institution of its character he had ever seen in the world."

Very sincerely yours,

WM. A. WHITE,
Superintendent.

Every lawyer in this House knows that Dr. William A. White can remember every important case in which he has ever testified wherein he received a large fee for testifying, and that he can remember the fee he received. He did not have to keep a set of books. He could have told me if he had wanted to tell me. And, as a Representative of the people in this Congress, I had the right to ask him these questions, for I am called upon to vote the appropriations that give to him his salary, and his residence, and his servants, and his food, and his furnishings, and his lights, and his heat, and his gas, and his water, and everything else he wants for himself and his family, given to him free by this Government; and when the law requires him to devote all of his time to this Government institution out here, I have the right to know whether he is doing it or not.

And, Mr. Chairman, he had no right to sell his services to the defense in the Leopold and Loeb trials at $250 per day.

Doctor Work says that he owes his time to the people. How does this institution get along when he is spending two weeks in Chicago? How does it get along without its head when he makes these trips to New York? How does it get along with its head absent if there should be a Leopold and Loeb trial in San Francisco and they call on him to come there at $250 a day? I say as one Member of this House that he should stop that kind of work if he expects to hold his position with this Government.

The statistics show that in Chicago, just one city in the United States, there were 180 people murdered during 1924. Connected with same there were 258 persons arrested. Only one was hanged. They could not entirely defeat justice in Chicago, however, for 20 murderers committed suicide. Only 30 were sentenced to prison.

In New York, during 1924, 297 persons were arrested charged with murder. During 1923, with 112 persons tried for murder in New York, only 1 was convicted for first-degree murder, and only 11 were convicted for second-degree murder.

The latest statistics I have for England and Wales is for 1922. Throughout the entire boundaries of England and Wales during the year 1922 there were only 100 deaths thought to be from foul causes. Twenty-seven persons suspected committed suicide. Sixty-five others were arrested. Of these 5 were discharged, as the evidence was not sufficient to hold them. Sixty were tried, and 34 were sentenced to be hanged. On account of extenuating circumstances 4 females and 6 males had their death sentences commuted to life imprisonment at hard labor.

It is sure certain adequate punishment in England that deters crime. Life is of value there. Life would be of value here if we would have the manhood to inflict death when death is deserved. We must put aside this foolish sentimentalism. When Leopolds and Loebs commit these studied, vicious, cruel murders we ought to stop their breed by hanging them by the neck until they are dead. Life will not be of value in the United States until we do wake up.

If Dr. William A. White had not been connected with this Government institution, Clarence Darrow would not have given 30 cents for his testimony. He must stop selling the Government of the United States for money in murder cases to let criminals escape just punishment. And he must not secrete his facts.

It is unfortunate, indeed, that the gentleman from Michigan saw fit to make a point of order against my amendment, for I believe that if it could have come to a vote in this House the membership would have stopped this Government official from leaving his position, to which by law he is required to devote all of his time, and selling himself to millionaire criminals, and spending two weeks in Chicago to help them escape the hangman's noose, at $250 per day reward for his testimony. This is one time when the House should have been permitted to vote on this proposition. And I serve notice now that I am going to our two Senators at the other end of this Capitol and request them to put this amendment in this bill there, where technicalities can not keep it out, and I believe that they will put it in and that the Senate will pass it.

If Congress does not stop this pernicious practice, the American people are going to hold Congress responsible for it. They have a right to pass this amendment over in the Senate. We are under limitations here, but they have no limitations over there and they ought to do it. We ought to stop these avaricious alienists from testifying for big pay in court to keep from the gallows men who ought to be hanged. I say that it is my belief that these two educated criminals ought to have been hanged by the neck until they were dead. [Applause.]

Mr. CRAMTON. Mr. Chairman, I am quite sure that the Senators from Texas did not understand when they read the news of the lamentable death at the hands of those two young men in Chicago that it also meant their political death. I had not supposed that our committee was to try that case anew. I do not care to argue with the gentleman from Texas [Mr. BLANTON] as to the propriety of many practices that obtain in the use of expert testimony in courts. There is certainly a field for reform in that connection.

The item before us has to do with St. Elizabeths Hospital. The gentleman's remarks are directed against its superintendent, Doctor White. I have had contact with Doctor White for several years, first, with the Committee on Expenditures in the Department of Justice when we made some investigation of that institution and then for five years in connection with this bill, and I am frank to say, and I think it is only justice to Doctor White that I say it, that my opinion is that Doctor White has all of the time that he has been in public service rendered a conscientious and able and effective service, which has been worth more than the Government has ever paid him, and as such he is entitled to a fair deal here in the House. I do not care at this time to have the trial of some of the lawsuits in Chicago landed on this bill.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. BANKHEAD. But as I understand the position of the gentleman from Texas [Mr. BLANTON] it is directed against the policy of a Government official who is receiving presumably an adequate salary for the performance of his official duties accepting private employment which might take him away from his post of duty.

Mr. CRAMTON. The correction of that policy, if it be needed, is a legislative matter for which we are not responsible.

Mr. BANKHEAD. I was curious to know the gentleman's attitude upon it.

Mr. BLANTON. He has none.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn and the Clerk will read.

The Clerk read as follows:

HOWARD UNIVERSITY

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the

university, ice, and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $2,200 shall be used for normal instruction, $125,000.

Mr. HARE. Mr. Chairman, I make the point of order that the paragraph, lines 8 to 13, page 109, is not authorized by law.

Mr. CRAMTON. Mr. Chairman, will the gentleman withhold his point of order for a few minutes to permit me to make a statement with reference to the paragraph?

Mr. HARE. I shall be glad to withhold the point of order for a moment.

Mr. CRAMTON. Mr. Chairman, I rise simply to say this: The point of order is valid. The paragraph has no legislative authority. If the gentleman insists upon his point of order, of course, the Chair will be obliged to sustain it. I ask the gentleman not to insist upon his point of order for this reason: Howard University has been supported in small part by Federal funds for some 40 or 50 years. It has in that time developed until they now have a regular attendance of something over 2,000 colored students, students who would not have an opportunity elsewhere to get the training they get at this university, especially in certain professional courses. The Government does not bear the whole expense of the institution, as will be realized when it is noted that this bill carries only $218,000 as a contribution on the part of the Federal Government for the institution for this year, that institution having over 2,000 students.

This item and those to follow are all on the same footing, and, although this has not authority of law, because of its long-established usage back of it your committee felt obliged to report the item that came to us from the Budget. If the gentleman does insist on his amendment, then that will only serve to emphasize the necessity of finally having legislation instead of only custom, if the House itself desires such appropriations continued.

Mr. HILL of Maryland. Will the gentleman yield?

Mr. CRAMTON. I will.

Mr. HILL of Maryland. I would like to ask the chairman of the committee this: A similar point of order has been made every year on this item. For 40 or 50 years the Government has been very properly making contributions to Howard University; I would like to ask the gentleman what committee has charge of reporting a bill which properly authorizes it?

Mr. CRAMTON. A point of order has not been made every year. Several times points of order have been made against new construction items proposed, but this bill does not propose any new construction, and on some occasions points of order have been made against items similar to this for maintenance and have, of course, always been sustained. The Committee on Education has jurisdiction of the question. I introduced a bill in the last Congress which went to that committee authorizing such appropriations in order to clean up this situation and make clear the authority. That bill was favorably reported at the last session by the Committee on Education only a little time before adjournment. I have introduced such a bill in this Congress, which is before that committee.

Mr. HILL of Maryland. My recollection is last year that the chairman of the committee, when a point of order was made, said he would introduce such legislation, and I wondered whether it had been passed or not.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. CRAMTON. I will.

Mr. CHINDBLOM. If legislation is passed, then an appropriation will always be in order.

Mr. CRAMTON. That would relieve the committee greatly, because in view of the long-established custom——

Mr CHINDBLOM. On the other hand, it is possible in some other way provision may be made to care for the expenses of this institution, and then it would not longer be necessary to carry it, while if we pass legislation, then certainly appropriations will be made forever.

Mr. CRAMTON. I personally feel there is a real Federal obligation in connection with that institution.

Mr. CHINDBLOM. I think so myself, but if we pass legislation then we perpetuate it.

Mr. CRAMTON. I think such legislation ought to be passed.

Mr. HILL of Maryland. I think so, too.

Mr. Chairman, the appropriation for Howard University stands on a different basis from other appropriations connected with the Federal encouragement of education. Federal assistance has been rendered to Howard University for 40 or 50 years. The appropriation might well be contained in the District of Columbia appropriation bill. While I am against the Federal Government taking over control of education in the States from State authorities, I do favor in every possible way the encouragement of education by the Federal Government in its own proper sphere.

The full proposed appropriation for Howard University is as follows:

HOWARD UNIVERSITY

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, ice, and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $2,200 shall be used for normal instruction, $125,000;

For tools, material, salaries of instructors, and other necessary expenses of the department of manual arts, of which amount not to exceed $21,800 may be expended for personal services in the District of Columbia, $28,000;

Medical department: For part cost needed equipment, laboratory supplies, apparatus, and repair of laboratories and buildings, $9,000;

For material and apparatus for chemical, physical, biological, and natural-history studies and use in laboratories of the science hall, including cases and shelving, $5,000;

For books, shelving, furniture, and fixtures for the libraries, $3,000;

For improvement of grounds and repairs of buildings, including replacement of steam line from central heating plant, $30,000;

Fuel and light: For part payment for fuel and light, Freedmen's Hospital and Howard University, $18,000;

Total, Howard University, $218,000.

I have here a copy of the bill which was reintroduced by the gentleman from Michigan [Mr. CRAMTON], chairman of the Subcommittee on Appropriations, in reference to conferring legislative authority for appropriations for Howard University. This bill (H. R. 393) is as follows:

A bill (H. R. 393) to amend section 8 of an act entitled "An act to incorporate the Howard University in the District of Columbia," approved March 2, 1867.

Be it enacted, etc., That section 8 of an act entitled "An act to incorporate the Howard University in the District of Columbia," approved March 2, 1867, be amended to read as follows:

"SEC. 8. Annual appropriations are hereby authorized to aid in the construction, development, improvement, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Bureau of Education and shall be inspected by the said bureau at least once each year. An annual report making a full exhibit of the affairs of the university shall be presented to Congress each year in the report of the Bureau of Education."

I hope the above bill will promptly pass, since this Congress should do everything possible to encourage so valuable an institution as Howard University.

Mr. HARE. Mr. Chairman, I shall not discuss the merits or demerits of the proposition at this time, but insist on the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For tools, material, salaries of instructors, and other necessary expenses of the department of manual arts, of which amount not to exceed $21,800 may be expended for personal services in the District of Columbia, $28,000.

Mr. HARE. Mr. Chairman, I make the same point of order to that paragraph.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Medical department: For part cost needed equipment, laboratory supplies, apparatus, and repair of laboratories and buildings, $9,000.

Mr. HARE. Mr. Chairman, I make the same point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For material and apparatus for chemical, physical, biological, and natural-history studies and use in laboratories of the science hall, including cases and shelving, $5,000.

Mr. HARE. Mr. Chairman, I make the same point of order against the paragraph.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For books, shelving, furniture, and fixtures for the libraries, $3,000.

Mr. HARE. Mr. Chairman, I make the same point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For improvement of grounds and repairs of buildings, including replacement of steam line from central heating plant, $30,000.

Mr. HARE. Mr. Chairman, I make the same point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Fuel and light: For part payment for fuel and light, Freedmen's Hospital and Howard University, $18,000.

Mr. HARE. I make the same point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

Total, Howard University, $218,000.

Mr. HARE. I make the point of order to the entire appropriation.

The CHAIRMAN. The point of order is sustained.

Mr. CRAMTON. Mr. Chairman, I hope the gentleman from South Carolina can agree on having line 7, page 109, stricken out, I do not think that is included in the first point of order.

Mr. BLANTON. He made the point of order as to line 7.

The Clerk read as follows:

For subsistence, fuel and light, clothing, bedding, forage, medicine, medical and surgical supplies, surgical instruments, electric lights, repairs, replacement of X-ray apparatus, furniture, motor-propelled ambulance, and other absolutely necessary expenses, $52,894.

Mr. CRAMTON. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 110, line 13, after the word "clothing," insert "to include white-duck suits, white-canvas shoes for the use of internes, and rubber surgical gloves."

Mr. CRAMTON. Mr. Chairman, the purpose of the amendment is because of a recent ruling of the General Accounting Office which interferes with a former custom. The Surgeon in Chief says:

As a reason for the above request, I beg to state that the General Accounting Office has recently disallowed payment for white-duck suits and canvas shoes. As to surgical rubber gloves, no operation can be performed with safety to the patient unless rubber gloves are worn by the operator. They are as necessary as the scalpel in an operation, and both are essential for hospital work.

This has been the common custom heretofore.

The CHAIRMAN. The Chair would suggest that this amendment is in rather a peculiar form: "To include white-duck shoes and white-canvas shoes for the use of internes and rubber surgical gloves." Should it not be, "To include white-duck shoes and white-canvas shoes and rubber surgical gloves for the use of internes"?

Mr. CRAMTON. I will say it is the language that was sent to me. Yes; that change should be made.

The CHAIRMAN. Without objection, the Clerk will report the modified amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: On page 110, line 3, after the word "clothing," insert: "To include white-duck shoes and white-canvas shoes and rubber surgical gloves for the use of internes."

Mr. CRAMTON. Mr. Chairman, I think the amendment had better stand as it was. The purpose of the amendment was not to restrict the surgical gloves to internes. The surgeons performing operations would use them.

Mr. BLANTON. Mr. Chairman, I move that we send for the legislating drafting service. [Laughter.]

The CHAIRMAN. The term "rubber surgical gloves" is broad.

Mr. CRAMTON. The amendment is right, Mr. Chairman, as presented.

The CHAIRMAN. The Chair thinks the language should be changed to "also" in the last line. However, it is not the responsibility of the Chair.

Mr. CRAMTON. It is not necessary, I believe, Mr. Chairman.

The CHAIRMAN. The Chair will submit the amendment as offered by the gentleman from Michigan. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk resumed and concluded the reading of the bill.

Mr. CRAMTON. Mr. Chairman, I move that the committee rise and report the bill with amendments to the House, with the recommendation that the amendments be concurred in and that the bill as amended do pass.

The CHAIRMAN. The gentleman from Michigan moves that the committee rise and report the bill with amendments to the House, with the recommendation that the amendments be concurred in and that the bill as amended do pass. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BURTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 6707) making appropriations for the Interior Department for the fiscal year ending June 30, 1927, and for other purposes, had recommended certain amendments, and it now recommends that such amendments be adopted and that when so adopted the bill do pass.

The SPEAKER. The gentleman from Ohio [Mr. BURTON], Chairman of the Committee of the Whole House on the state of the Union, having under consideration the bill H. R. 6707, reports that the committee has instructed him to report it with certain amendments, and recommends the adoption of the amendments and that the bill as amended do pass.

Mr. CRAMTON. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The SPEAKER. The gentleman from Michigan moves the previous question on the bill and all amendments to final passage. The question is on agreeing to that motion.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. CRAMTON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

RESIGNATION OF A MEMBER

The SPEAKER. The Chair lays before the House a resignation, which the Clerk will report.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES, *Washington, D. C.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

MY DEAR MR. SPEAKER: I hereby tender my resignation as a Representative elect to the Sixty-ninth Congress from the tenth Kentucky district, to take effect immediately. I would appear on the floor and do this myself but for the state of my health and other conditions. I am taking this action for two reasons:

First. The action of the Supreme Court in denying my application for a writ of certiorari.

Second. I do not wish to cause my colleagues in the House any embarrassment. Most of them have been my associates and warm, personal friends, having served with many of them for nearly 20 years, and I am glad to believe that, notwithstanding the unfortunate circumstances which have recently surrounded me, they will have faith in the reiteration which I now make of my absolute innocence of the charges upon which my prosecution has been based, and that the day will yet come when my complete vindication will follow.

Very respectfully,

JOHN W. LANGLEY.

The SPEAKER. The Chair will state that he will transmit a copy of this letter to the Governor of Kentucky.

Mr. BURTON. Mr. Speaker, a committee was appointed at the beginning of the session to consider the qualifications and election of Mr. LANGLEY. This resignation seems to make it unnecessary that the committee should file any further report or take any action. I ask unanimous consent that the committee may be discharged from further consideration of the matter.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the committee appointed to consider the qualifications and election of Mr. LANGLEY be discharged from further consideration of the matter. Is there objection?

There was no objection.

PARKWAY CONNECTION IN THE DISTRICT OF COLUMBIA

Mr. ZIHLMAN. Mr. Speaker, I move that the House do now resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 4785) pertaining to the Rock Creek and Potomac Park Commission; and, pending that, I submit a unanimous-consent request that the debate on the bill be limited to 30 minutes, one-half to be controlled by the gentleman from Texas [Mr. BLANTON], the ranking member of the Committee on the District of Columbia in the city, and one-half by myself.

The SPEAKER. The gentleman from Maryland asks unanimous consent that the debate on the bill be limited to 30 minutes, one half to be controlled by the gentleman from Texas

[Mr. BLANTON] and the other half by himself. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Speaker, in accordance with the agreement had with the gentleman from Maryland, that will be agreeable.

The SPEAKER. There is no objection. The gentleman from Maryland moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 4785. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The gentleman from Connecticut [Mr. MERRITT] will please take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 4785, with Mr. MERRITT in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of H. R. 4785, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 4785) to enable the Rock Creek and Potomac Parkway Commission to complete the acquisition of the land authorized to be acquired by the Public Buildings appropriation act, approved March 4, 1913, for the connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park

Be it enacted, etc., That to enable the Rock Creek and Potomac Parkway Commission to complete the acquisition of the land authorized to be acquired by section 22 of the public buildings appropriation act approved March 4, 1913 (Stat. L., vol. 37, p. 885), for the connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, in addition to the sum authorized by said act of March 4, 1913, the sum of $600,000.

With the following committee amendment:

On page 2, in line 1, after the word "appropriated," strike out "out of any money in the Treasury not otherwise appropriated," and insert "out of the surplus revenues of the District of Columbia made available by Public Laws 358, Sixty-eighth Congress, approved February 2, 1925."

Mr. ZIHLMAN. Mr. Chairman, may I ask the gentleman from Texas [Mr. BLANTON] to use the time allotted to him, as there is only one speech on this side. I have no requests for time.

Mr. BLANTON. The gentleman is not going to present the bill?

Mr. ZIHLMAN. I will be very glad to present the bill, but I think as chairman of the committee I have the right to close, and unless the gentleman insists I would be glad to have him use his time.

Mr. BLANTON. I would rather have the gentleman make a presentation of his bill, so we shall know what we are up against.

Mr. ZIHLMAN. Mr. Chairman, this bill was unanimously reported by the Committee on the District of Columbia. The gentleman from Texas has filed a minority report on the bill of some 15 pages, printing letters which have been repeatedly printed in the CONGRESSIONAL RECORD, and reports of committees for the past four or five years, so I do not think he needs any light on this subject.

The bill is an act to enable the Rock Creek and Potomac Parkway Commission to complete a project that was started some 13 years ago, when Congress authorized the appropriation of $1,300,000 to be expended on a parkway connecting Rock Creek Park and the Potomac Parkway. The commission, which is composed of the Secretary of the Treasury, the Secretary of War, and the Secretary of Agriculture, has been proceeding for a number of years to purchase various tracts and parcels of land, and has exhausted the original authorization made of $1,300,000. This bill, which is transmitted by the chairman of the commission, the Secretary of the Treasury, is to enable the commission to complete their work.

Mr. BLACK of Texas. Will the gentleman yield?

Mr. ZIHLMAN. I will yield in just a moment. The total area in this project is 159 acres of land. The percentage acquired to date and owned by the Federal Government and the District of Columbia, prior to the passage of the legislation I have referred to, the act of 1913, is 92.63 per cent of the area of the entire project, so that there only remains to be acquired 11.73 acres. The commission has a balance on hand of some $47,000. It is estimated that the land to be acquired—condemnation proceedings having been instituted through the Department of Justice—will require $647,000. This money, if made available, will enable the commission to complete the project and finish the work of this commission.

In the original act it was provided that one-half of the expense, 50 per cent of the expense, of acquiring this land was to be paid for out of the Federal Treasury, and one-half was to be paid for by the District of Columbia in eight annual installments, with interest at 3 per cent. The bill as transmitted by the chairman of the commission, the Secretary of the Treasury, provided that all of the money should be appropriated out of the Treasury of the United States. The Committee on the District of Columbia has amended the bill so as to provide that this $600,000 shall be paid out of the surplus revenues of the District of Columbia, which were made available by the act of February 2, 1925. I might say in connection with this amendment that during the last session of Congress, when the House was considering the bill crediting to the District of Columbia the surplus revenues of the District, amounting to approximately $5,000,000, an amendment was offered by the distinguished gentleman from Michigan [Mr. CRAMTON], who had been acting as chairman of the Subcommittee on District Appropriations, providing that this surplus revenue should be expended for park, playground, and school purposes. The last Congress appropriated the sum of approximately $2,000,000 for school buildings and school sites. Estimates submitted to the Director of the Budget and transmitted by him to Congress are now before the Committee on Appropriations amounting to some $2,000,000, and this $600,000, which is the first of the surplus revenue that has been appropriated for park purposes, has been set aside and held in reserve both by the District officials and by the Director of the Budget for the purposes set forth in this bill. So we are following not only the precedent established by the Committee on Appropriations in dealing with the surplus fund but we are following the policy of the Bureau of the Budget.

Mr. TILSON. Will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. TILSON. Will this $600,000 additional complete the project? Will it buy all the land that is necessary to connect those two parks?

Mr. ZIHLMAN. It is estimated by the Director of Public Buildings and Grounds, who has been acting as the executive officer of this commission, that this will complete this project and vest in the Government of the United States the ownership of this entire 159 acres.

Mr. TILSON. Just one further question. Will immediate steps be taken, then, to complete the roadway so as to connect the two parks? It seems to me that is an important matter in connection with those two parks—a road which will take traffic out of the streets.

Mr. ZIHLMAN. I will say to the gentleman from Connecticut that plans have already been prepared for connecting the roadways between Rock Creek Park and Potomac Park. I now yield to the gentleman from Texas [Mr. BLACK].

Mr. BLACK of Texas. The question I wanted to ask the gentleman was this: I notice that the figures mentioned by the gentleman indicate something more than $50,000 an acre. Has the land any improvements on it or is it vacant land?

Mr. ZIHLMAN. The majority of it—and I might say there is not very much remaining—is vacant land, but the most costly of the land is the land at the corner of Pennsylvania Avenue and M Street, which is improved, which is rapidly increasing in value.

I insert herewith as a part of my remarks a statement of the Rock Creek and Potomac Parkway Commission as of October 1, 1925, giving in detail the various appropriations made, the land acquired, and the cost of the property to be acquired:

OCTOBER 1, 1925.

Statement of Rock Creek and Potomac Parkway Commission

APPROPRIATIONS

July 1, 1916		$50,000.00
July 12, 1917		100,000.00
July 1, 1918		150,000.00
July 19, 1919		250,000.00
July 5, 1920		200,000.00
March 4, 1921		200,000.00
July 1, 1922		100,000.00
July 1, 1923		75,000.00
July 1, 1924		75,000.00
March 4, 1925 (for fiscal year 1925 only)		100,000.00
(1) Total appropriation		1,300,000.00
(2) Organization expenses	$86,618.07	
(3) Paid for land	1,106,004.06	
(4) Total disbursements		1,252,622.13
(5) Balance available for condemnation—		
Appropriated March 4, 1925 (for fiscal year 1925)		42,106.99
Balance available from previous continuous appropriation		5,270.88
Total		47,377.87

GENERAL DATA

(a) Area of proposed parkway (1916)—square feet	6,899,197
(b) Area added to parkway, June 5, 1920—do	47,708
(c) Area added to parkway, Feb. 28, 1923—do	18,442
	6,965,347
Total acres	159.90
Of this total area—	
(7) The United States owned by virtue of cessions, dedication, etc., condemnations—	
Square feet	2,881,094
Acres	66.14
(8) Leaving to be acquired by purchase, condemnation, or otherwise—	
Square feet	4,083,853
Acres	93.76
(9) The assessed value of this land is	$1,542,989.00
* * * * * * *	*
(10) Number of squares affected	41
(11) Total number of lots and parcels included in project	470
* * * * *	*

PROGRESS OF PURCHASING

July 1, 1924, to October 1, 1925

Number of lots acquired	8
Area of lots—square feet	37,209.21
Purchase price	$118,914.25
Organization expenses	$13,883.80
Assessor's valuation	$60,703.36
Above assessor's valuation	$58,210.89
* * * * * *	*

1916 to October 1, 1925

Number of lots acquired (including 9 parcels)	286
Area of lots, etc., parcels—square feet	3,572,600.21
Assessor's valuation	$1,196,607.10
Paid for land $1,166,004.06	
Organization expenses 86,618.07	
Total disbursements	$1,252,622.13
Above assessor's valuation	$55,895.04

Status as of October 1, 1925

Total area of project—	
Square feet	6,965,347.00
Acres	159.90
Total area of land owned by the United States October 1, 1925—	
Square feet	6,454,094.21
Acres	148.166
Per cent acquired to date	92.63
Area outstanding to be acquired by purchase, condemnation, or otherwise—	
Square feet	511,252.79
Acres	11.73
Estimated cost (based on assessor's 3/3 valuation)	$647,377.87

The following properties have been offered to the commission at favorable prices:

	Area square feet	Offered price
Peck Memorial Chapel, Twenty-eighth Street and Pennsylvania Avenue NW., lot 14, square 1194	4,438	$106,650.50 (27,994.26)
Lawton Bros. Carriage Factory, 2702-2704 M Street NW., lot 13, square 1194	8,538	91,960.00 (25,372.80)
Total offers pending	12,976	198,610.00

The Attorney General has to date been requested to condemn 44 parcels of land, the majority of which are now filed or in process of being filed in the Supreme Court of the District.

Total estimated amount of these 44 awards, $293,606.50.

Total cost of property freely offered as listed herein	$198,610.50
Total estimated cost of condemnation of properties requested of Attorney General (as above)	293,606.50
Total estimated cost of remaining outstanding properties (no offers pending, nor has the Attorney General been requested to condemn), 84 in number	155,160.87
Total estimated cost to complete land acquirement	647,377.87
Total authorized in section 22 of the public buildings act approved Mar. 4, 1913	1,300,000.00
Total appropriated to date	1,300,000.00
Balance due under original authorization	None.
Balance available Oct. 1, 1925:	
Available for condemnation appropriated Mar. 4, 1925, for fiscal year 1925	42,106.99
Balance available from previous continuous appropriation	5,270.88
Total	47,377.87
Total additional funds necessary to complete land acquirement under new authorization	600,000.00

Mr. ZIHLMAN. If there are no further questions, Mr. Chairman, I reserve the balance of my time.

Mr. BLANTON. Mr. Chairman and gentlemen, having obtained permission of the House to revise and extend my remarks, it will permit me to print my prepared speech in logical form and use most of my time on the floor on a subject other than the bill now under discussion.

I did file minority views, because it was very necessary that an amendment which in the committee I forced to be placed in this bill should be passed and not be defeated by the House, as it means $600,000 to the taxpayers of this Nation.

Mr. TILSON. My friend speaks of minority views which the gentleman filed; are they available?

Mr. BLANTON. Yes; they are available there on the Clerk's desk.

Mr. HUDSPETH. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. HUDSPETH. Has the action the gentleman just referred to been taken in this bill?

Mr. BLANTON. Yes; that has been done. That is a committee amendment which the gentleman from Massachusetts [Mr. UNDERHILL] very wisely offered and we had the committee adopt.

Mr. HUDSPETH. Will my colleague yield further?

Mr. BLANTON. Yes.

Mr. HUDSPETH. Does the gentleman from Maryland [Mr. ZIHLMAN] agree to this amendment?

Mr. BLANTON. Yes; but I will tell the gentleman why it was necessary to file minority views.

Mr. HUDSPETH. Why the minority views then, I want to ask my colleague?

Mr. BLANTON. The gentleman has seen amendments come in here from committee in bills that must be voted upon on the floor of the House, and he has seen them stricken out by the action of the House.

Mr. HUDSPETH. Will the gentleman from Maryland [Mr. ZIHLMAN] support this amendment on the floor?

Mr. BLANTON. I think the gentleman will personally, because the gentleman is always fair.

Mr. ZIHLMAN. May I say to the gentleman I am for the amendment.

Mr. BLANTON. But the gentleman can not control all of the other members of the committee. And unless the membership knows what is in a proposition, they can not vote intelligently upon even committee amendments. And the Senate must pass on this bill. And it must know all of the facts connected with it. So I did some hard work.

The antagonistic position of the Commissioners of the District of Columbia, as well as that publicly expressed by one member of the committee, the gentleman from North Carolina [Mr. HAMMER], concerning one feature of this measure, which, if they could frame it as they would, would materially affect to their detriment the taxpayers of every State in the Union, necessitate this review of the facts relating to the subject.

There are several new Members who for the first time are now serving on the District of Columbia Committee, and there are quite a number of new Members of Congress who are wholly unacquainted with the fiscal relation existing between the District and the Government of the United States. As H. R. 4785 is the first bill favorably reported by the District Committee, it is well that in its consideration before the House they should have the following facts brought to their attention:

This bill is to authorize an appropriation of $600,000 to acquire small plats of land to round out a connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park. All three of these beautiful parks are daily used and enjoyed by the citizens of Washington. They are for the use and benefit of the citizens of Washington.

But when the commissioners had this bill prepared and sent to the chairman of our committee for introduction and passage, they had it provide that this $600,000 should be appropriated out of the Treasury of the United States, so that it would be paid by the taxpayers of the United States, and not by the people of the District of Columbia.

I insisted that it should be amended, so that it should conform to the laws passed by Congress.

When I first came to Washington the Government of the United States paid one-half of all of the fiscal expenses of the Washington people under what was known as the ridiculous 50-50 plan, and this continued until the fiscal year of 1921. Under such plan the people of Washington paid a total tax of only about $1 on the $100. Then Congress changed it to what is known as the 60-40 plan, whereby the people of the District of Columbia paid 60 per cent of their fiscal expenses, and the Government of the United States paid the other 40 per cent of same. Under this system the people of Washington had to pay a total tax rate of only $1.20 on the $100, both on personal and real property. Then beginning with the fiscal year ending June 30, 1925, Congress has paid $9,000,000 annually out of

the United States Treasury toward the fiscal expenses of the people of Washington. And their tax rate for the present year is only $1.70 on the $100. And their tax rate for the last year was only $1.40 on the $100. And to have their automobiles registered and receive number plates costs them only $1 each, whether they are Fords or Pierce-Arrows. And each person is allowed $1,000 of personal property exempt from all taxes. And the tax rate here on intangible property is only five-tenths of 1 per cent, and until recently it was only three-tenths of 1 per cent. Annual sewer service is furnished free to each family. To show you how little water costs here, my water for last year cost me only $6.25. There are seven in my family, and there were no restrictions as to use, and we used all we needed both in the house and in the yards. This small charge is due to the fact that the Government of the United States owns the original conduit that brings city water into Washington, and that its original cost was wholly paid for out of the Treasury of the United States.

On account of the fact that in many of the Government supply bills money for many purely local civic institutions was provided wholly out of Government funds from the Treasury of the United States, it was unnecessary to spend all of the funds which the District raised from the $1.20 tax it collected from Washington people to pay its one-half under the 50-50 arrangement, and in the Sixty-seventh Congress the District of Columbia claimed that it should be credited with $4,438,154.92 of balances unexpended, and also of an additional claim of $819,373.83. As a rider tacked onto an appropriation bill Congress caused a commission to be appointed to investigate and report on such claims, giving such commission specific directions.

A majority of the commission reported that such claims should be allowed, but former Congressman Evans, of Nebraska, who was a member of such commission, filed an exhaustive minority report against such claims, showing that the commission did not obey the instructions of Congress and did not properly audit said claims, and insisted that such claims were unjust, and that if such fiscal relations were completely and properly audited it would disclose that from the District of Columbia was due the Government of the United States many millions of dollars. Congressman Evans said that our colleague, Hon. BEN JOHNSON of Kentucky, who was formerly chairman of the Committee on the District of Columbia, is the best posted man in the United States on the fiscal relations between the District of Columbia and the United States. The following correspondence is self-explanatory:

WHAT CONGRESSMAN BEN JOHNSON OF KENTUCKY SAID

WASHINGTON, D. C., *June 5, 1924.*

Hon. BEN JOHNSON, M. C.,
House Office Building.

MY DEAR COLLEAGUE: With reference to the so-called surplus alleged to be due the District of Columbia by the Government, Mr. Daniel J. Donovan, the auditor for the District, testified that the reason the joint congressional committee, created June 20, 1922, confined its investigations to the period between June 30, 1911, and June 30, 1922, and did not go back to July 1, 1874, as directed by Congress, was because you had fully covered the period between July 1, 1874, and July 1, 1922, in an investigation you had conducted while chairman of the District Committee. And he claimed that you had balanced accounts up to July 1, 1911.

From my conversations with you and in examining many speeches made by you on the many ways the District has overreached the Government on finances, I am constrained to believe that Auditor Donovan is mistaken.

Will you kindly advise me whether you did, in fact, cover all matters involved between July 1, 1874, and July 1, 1911, and whether you agree that the District balanced accounts up to July 1, 1911?

Sincerely yours,

THOMAS L. BLANTON.

[BEN JOHNSON, M. C., fourth Kentucky district, member Appropriations Committee]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., June 5, 1924.

Hon. THOMAS L. BLANTON,
House of Representatives, Washington, D. C.

MY DEAR COLLEAGUE: I am just in receipt of your note asking whether or not, in my opinion, all matters relative to the fiscal relations between the District of Columbia and the United States Government were covered by the investigations made by the Committee on the District of Columbia while I was chairman of that committee.

In reply thereto I wish to say that not only is the statement made by Mr. Donovan incorrect, but that it was never contemplated under the authority given by the House to the District Committee to go into the entire fiscal relations between the United States and the District of Columbia. The authority given and the work undertaken included nothing more than to recover specific items due the United States from the District of Columbia.

In those items were embraced considerably more than a million dollars owing to the United States by the District of Columbia on account of the lunatic asylum, approximately half a million dollars on account of the Center Market, and various other items on account of advancements made for schoolhouse purposes, the jail, the 3.65 bonds, and a number of other items which I can not now enumerate.

When I retired from the chairmanship of the District Committee I invited the attention of my successor to several other items which, beyond any sort of doubt, were due to the United States by the District of Columbia and volunteered by assistance in helping him to develop them so that they might be paid. The resolution which would have authorized additional payments to the United States by the District was never asked for, and my offer to designate the specific sums due the United States was not availed of.

In my opinion, large sums of money are still owing to the United States by the District between the 1st of July, 1874, and the 1st of July, 1911.

I notice in the local papers that those who are designated as "friends of the District" are asking for another investigation into the fiscal relations between the District of Columbia and the United States. In my opinion, the "special committee" now being asked for to once more inquire into these relations is but an excuse to avoid the real issue. It is easily ascertainable that every time the District of Columbia has been called upon to pay a decent rate of taxes without infringing upon the rights of the people of other States to help them pay their taxes they have resorted to a "special committee" to inquire into the fiscal relations between the District of Columbia and the United States. It is not the investigation that they want. Instead it is delay and a lack of adjustment that they desire by seeking an investigation.

The last investigation, with all due respect to those who conducted it, was farcical. That "special committee" was particularly directed to make specific findings. If they had complied with the law made two years ago, they could not possibly have failed to find the District of Columbia indebted to the United States in excess of $50,000,000 spent in beautifying and upbuilding the District of Columbia.

Instead of going into the matter in detail they treated the proposition in a blanket way and found that the United States owes the District of Columbia what is now known as the "four and one-half million dollar surplus"; while, as I have said, if they had followed the directions of the law, the balance would have been on the other side of the ledger in an amount certainly not less than $50,000,000.

Very truly yours,

BEN JOHNSON.

BUT AS USUAL THE DISTRICT GOT WHAT IT WANTED

In the Sixty-eighth Congress the District of Columbia got its bill passed by the Senate with practically no consideration, and got it favorably reported by the House committee over my protest. I filed a minority report of 29 pages against it, but was unable to stop its passage in the House, and it became Public, No. 358, approved February 2, 1925. Congress thus gave this $4,438,154.92 and the $819,373.83, aggregating a total of $5,257,528.75, to the people of the District of Columbia. But before passing the bill the House of Representatives did place an amendment on it providing that this money should be credited to the District of Columbia in the Treasury of the United States and made available "For appropriation by the Congress for the purchase of land and construction of buildings for public school, playground, and park purposes."

So I insisted that this $600,000 authorized to be appropriated in this bill, H. R. 4785, should be appropriated out of this so-called surplus of $5,257,528.75 to the credit of the District of Columbia, which Congress specially provided should be used for park and other purposes.

As soon as the committee voted to do this the gentleman from North Carolina [Mr. HAMMER] insisted that we should appropriate this $600,000 out of Government funds in the United States Treasury and stated that he was in favor of reestablishing the old 50-50 system, and I quote the following excerpts from the Washington Star of January 6, 1925, as to what occurred:

Mr. UNDERHILL offered an amendment that it should be taken from the surplus fund, and on that basis Mr. BLANTON agreed not to oppose the legislation. Representative WILLIAM C. HAMMER, Democrat, of North Carolina, vigorously protested, however, that this meant the District paying entirely for the land to be acquired.

Mr. HAMMER protested that the fiscal relation between the National and District governments should go back to the 50-50 policy. He said he had no patience with a bulldozing policy which said, "Take this and be satisfied."

Mr. HAMMER said that if it is the only way in which to get the appropriations for the parkway connection he would not oppose it, but that he did resent a parsimonious and niggardly policy in regard to park development in the National Capital.

And in the Washington Post appeared the following:

BLANTON AND HAMMER TILT

Mr. HAMMER said he believed Congress should split the expense of the Rock Creek-Potomac parkway project with the District. Mr. BLANTON asked if it were not Washingtonians who enjoyed the parks.

"People from all over the country," insisted Mr. HAMMER.

"I'll bet few from North Carolina enjoy them," retorted Mr. BLANTON.

Congressman HAMMER is very liberal with somebody else's money. I am too liberal with my own, but I am careful about giving away the people's money out of the United States Treasury.

50-50 SYSTEM MR. HAMMER INDORSES

Just what is this old 50-50 system to which Congressman HAMMER wants to return? It is a system whereby the North Carolina constituents of Congressman HAMMER and the other constituents of Congressmen in the 48 States of this Union, after paying for their own schools, and water, and lights, and sewers, and street paving, and alley paving, and fire protection, and policing, and municipal courts, and municipal hospitals, and parks, and playgrounds, and bridges, and trees, and ash, garbage, and trash disposals, and street cleaning and sprinkling, must then be taxed additionally to pay one-half of all such local civic expenses for Washington people, in order that they, as special favorites of the Government, may escape paying like other people do for what they receive.

Congressman HAMMER may imagine that returning to such a system will suit his constituents in North Carolina, but I imagine that they will not be suited long after they find it out.

Under Congressman HAMMER'S proposed 50-50 system to which he wants to return, the Washington people accomplished the following:

They built their magnificent Municipal Building, where all of the city District business is transacted, and they built the many other numerous buildings used by the city, and the obliging Government of the United States paid half of the cost. Asheboro citizens had to build their own without help.

Washington people built their splendid, well-equipped high-school plants in different parts of the city, their numerous graded schools scattered in every portion of it, and equipped their many playgrounds, and the Government of the United States paid half of all the expense, acquiring the lands, architects' fees, construction of buildings, and equipment. And then for years up to the fiscal year of 1921 the Government of the United States paid half of the expense of conducting such schools, salaries for the 2,500 teachers and officers, free school books for the 65,000 school children, and every incidental expense. Asheboro citizens had to do all of these things for themselves, without help.

Over 90 per cent of the streets and alleys of main Washington were paved, and the United States Government paid half of the expense. Asheboro people had to pay for their own paving.

The sewer system of this great city was installed, and the Government of the United States paid half of the cost.

The water system was installed, and the Government paid half of all the expense, notwithstanding that it owned outright the original conduit bringing the water into the city. And the Government has helped very materially in completion the new extended system that will furnish abundant water for the future.

The complete fire-fighting system was installed, and the Government of the United States paid half of all the expense, including the salaries and equipment of the 700 firemen, fire stations in every part of the city, with latest improved fire engines, trucks, apparatus, and alarm systems. Asheboro people had to do this for themselves.

Washington people organized their Metropolitan police force with over 1,000 policemen, and the Government of the United States paid half of the expense, including the establishment of the many police stations scattered over the city, the salaries and equipment of the policemen, the patrol wagons. And in addition to this the Government at its own expense pays, equips, and furnishes its own guards and policemen for the Capitol, the Congressional Library, the Senate Office Building, the House Office Building, the Treasury, the Bureau of Engraving and Printing, the Government Printing Office, the White House and Grounds, the State, War, and Navy Building, the Smithsonian Institution, the Agriculture Department Buildings, and all of the other many Government buildings in Washington, without one dollar of expense to the city.

At its own expense the Government of the United States dredged the Potomac and Anacostia Rivers, and created the beautiful Potomac Park running all the way down to Haines Point, which is daily enjoyed by thousands of Washington people. And the Government gave Washington people deep water where boats can dock within three minutes' ride of the White House.

Former Congressman Davis, of Minnesota, was a member of the Appropriations Committee, and for years framed the District of Columbia appropriation bill. During debate in May, 1924, he stated that large and small there are about 600 parks in Washington, most of which he said had been paid for or furnished free by the Government, so that they cost Washington people nothing.

Rock Creek Park, meandering several miles along Rock Creek, is daily enjoyed by thousands of Washington people. During the summer months it is literally alive with picnickers each afternoon. For the portions of it that the Government did not furnish free, it has paid one-half of the purchase price, and the Government has policed it at its own expense.

Washington children with many grown-ups crowd to the Zoological Park daily, not only to see the animals, but for an outing. This is maintained and policed by special police force wholly at the expense of the Government without any cost to Washington people.

The wonderful Botanic Gardens are furnished and maintained by the Government of the United States without costing the Washington people one dollar. Thousands of Washington people daily enjoy same.

The Government furnishes free to the people of Washington the lovely rose gardens, the beautiful flower-bordered driveway down the Potomac, and the magnificent flower beds covering the grounds of the Agricultural Department, which are enjoyed by all of Washington. And Japanese cherry blossom time around the Basin is a thing of beauty and a joy forever.

Under the old 50-50 system which Congressman Hammer indorses and wants to return to the Government paid half of the expense of army of ash gatherers, the army of garbage gatherers, the army of trash gatherers who serve the residences of the Washington people, and all of which in North Carolina the Asheboro people must pay for themselves.

No Washington citizen pays any part of the expense of setting out and maintaining trees in front of his property. The Government of the United States paid half of the expense, and the city the other, furnishing the trees, setting them out, pruning them, spraying them, and maintaining them.

Under Congressman HAMMER'S 50-50 system the Government of the United States paid half of the expense of lighting every street and alley in the District of Columbia.

The bridges across the Anacostia River, the splendid Highway Bridge across the Potomac, the Connecticut Avenue million-dollar bridge, the $2,350,000 Key Bridge, and the many other bridges in the District of Columbia were paid for one-half by the Government of the United States.

The Government of the United States paid one-half of the expense of furnishing and maintaining the courthouses, the jail, the hospitals, the asylums, the house of detention, municipal libraries, community-center facilities, including the salaries and annual expenses of the great army of city officials and city employees.

I doubt whether Asheboro has any school that will match in equipment the wonderful plant of the Central High School in Washington, which, with its grounds, building, stadium, swimming pool, commodious auditorium, and equipment, is easily worth at this time over $3,000,000. The Eastern High School has cost over $2,000,000. I doubt whether Asheboro has any school that will match in equipment the Western High School, or the Business High School, or the McKinley Manual Training School, or even the colored Dunbar High School, or the colored Armstrong School, or some of the newest junior high schools here in Washington. Yet Asheboro has to furnish her own schools without help, and then has to be taxed to help Washington people furnish schools to Washington children. I am willing to wager that Congressman HAMMER is about the only Asheboro citizen who is thoroughly satisfied with the arrangement.

SAMPLE OF WHAT 60-40 SYSTEM COST

Let me give you the cost on streets and sewer alone under the 60-40 system, and you can then imagine what the total costs of all other items of expense totaled. The following is quoted from a letter which Daniel J. Donovan, auditor of the District of Columbia, wrote me:

The following appropriations were made by Congress for repair and maintenance of streets during the fiscal years 1921, 1922, 1923, and 1924, each of such appropriations being charged 60 per cent against the revenues of the District of Columbia and 40 per cent against the revenues of the United States:

Fiscal year—	
1921	$575,000
1922	575,000
1923	460,000
1924	550,000
Total	2,160,000

The following appropriations covering the same period have been made for repairs to suburban streets and roads, payable 60 per cent from the revenues of the District of Columbia and 40 per cent from the revenues of the United States:

Fiscal year—	
1921	$250,000
1922	250,000
1923	225,000
1924	275,000
Total	1,000,000

The following appropriations have been made for the same period for street improvements, including the paving and grading of streets, payable 60 per cent from the revenues of the District of Columbia and 40 per cent from the revenues of the United States:

Fiscal year—	
1921	$614,200
1922	144,840
1923	233,560
1924	573,300
Total	1,565,000

The following appropriations have been made for construction and maintenance of sewers for the fiscal years 1921, 1922, 1923, and 1924, payable 60 per cent from the revenues of the District of Columbia and 40 per cent from the revenues of the United States:

Fiscal year—	
1921	$515,000
1922	523,000
1923	502,000
1924	690,000
Total	2,231,000

I regret very much that it has not been practicable for me to furnish you with this information at an earlier date. In the event that you desire any more details regarding the several matters herein, I shall be very glad to respond to such a request from you.

Very truly yours,

D. J. DONOVAN,
Auditor District of Columbia.

HOW BIG OWNERS REAP BENEFITS FROM LOW TAXES

The tax assessor of the District of Columbia advised me that for the year 1923 the Meridian Mansions Hotel was assessed at $1,481,960, and at the $1.20 rate of taxation on the $100 paid a tax of only $17,783, when the sworn statement of its manager filed here in the District showed that its annual receipts from rentals alone aggregated $281,532.20. And the following from its owner shows that he considered it worth $3,000,000:

MERIDIAN MANSIONS HOTEL,
Washington, D. C., February 1, 1924.

Hon. THOMAS L. BLANTON,
Representative from Texas,
House Office Building, Washington, D. C.

MY DEAR MR. BLANTON: In the Washington Daily News of January 28, under the head of "Properties underassessed," I note that you list Meridian Mansions Hotel, at 2400 Sixteenth Street, which is a property purchased by me on January 1 of last year. * * *

The writer is at this time the president of the Louisiana Society of Washington, and for six years I was a director in the Federal Reserve Bank of Dallas. * * *

The usual assessment on property is 50 per cent of the valuation. This property could not be replaced for less than $3,000,000, in addition to the land * * * it was sold to me on very long-time payments for $2,250,000. * * *

I have spent quite a fortune refurnishing and building over the place to make it attractive.

Very truly yours,

E. KIRBY SMITH.

UNITED STATES HAS DONE MUCH FOR WASHINGTON PEOPLE

Before the Government spent millions building all of its fine institutions here Washington was a mere village. Property here was of little value. Now there are lots here that can not be bought for $100,000 that once could have been bought for $100.

The Government of the United States has nearly 70,000 people on its pay roll in Washington, who are paid off twice each month with new money that has never been spent before. These people spend their money freely. This is a bonanza for Washington.

Any city in the United States would be glad to have the Government's pay roll thus distributed in its midst. If the United States would move its Washington plant to Abilene, Tex., my home city would be glad to donate it several thousand acres to house it, and grant it free of all city taxes for all years to come.

In addition to its bimonthly pay roll, the Government is constantly spending many millions here in enlarging and improving its own institutions, and the people of Washington reap the benefit of this expenditure.

Congress has already passed a bill—over my protest, however—to spend $14,750,000 for another bridge across the Potomac River, just opposite Lincoln Memorial.

Without having the people of Washington contribute one penny, the Government of the United States has for years maintained the Howard University here for colored students. President Durkee told me to-day that matriculations in all departments of Howard University would reach 2,500 this year, and by careful check and estimate these 2,500 students would spend $2,250,000 in Washington during the school year. For the present fiscal year the Government of the United States gave this university $591,000, and H. R. 6707, which we have been debating, and which will be passed to-night, gives this Howard University the additional sum of $218,000 out of the Public Treasury. All of this money is spent here in Washington.

And this same bill, H. R. 6707, gives to the Freedmen's Hospital here in Washington, which each year is maintained by the Government, the sum of $52,894 for maintenance.

And this same bill, H. R. 6707, gives to the Columbian Institution for the Deaf here in Washington the sum of $113,400, all of which is spent in Washington.

And this same bill, H. R. 6707, gives to the St. Elizabeths Hospital here in Washington for annual maintenance the sum of $924,000, all of which is spent here in Washington. And the $250 per day for two weeks which Leopold and Loeb paid to the Government superintendent, Doctor White, for leaving his duties at St. Elizabeths and testifying for them in Chicago to prevent a just hanging, is undoubtedly spent here in Washington by Doctor White.

And all of the millions that the Government spends in its navy yard here in Washington and on its naval school and hospital is a bonanza to Washington people.

And all of the millions that the Government spends here on its Army posts, permanent quarters for officers, and barracks for men, including its War College, Army school, and Army hospital, constitutes another rich bonanza for Washington people.

The Government's Bureau of Standards tests for the Washington people free without charge certain structural and other material purchased by the District of Columbia.

The Government of the United States furnishes to the people of Washington its commodious Center Market properties, for the maintenance of which Congress appropriated for the present fiscal year $176,000. These properties are worth $5,000,000.

The Government of the United States out of its own Treasury pays their salaries and furnishes to the District government free the following Army officers who are used by the District of Columbia as administrative officials, to wit: Lieut. Col. James Franklin Bell, Maj. Raymond A. Wheeler, Maj. William Henry Holcombe, Maj. William E. R. Covell, Maj. U. S. Grant, 3d, Maj. Carey H. Brown, Maj. J. C. Mehaffey, Maj. James A. O'Conner, and Capt. M. H. Parsons, together with a host of their assistants. If the Government did not furnish these officers free to the Washington people they would be compelled to employ high-salaried officials to take their places.

For the constant pleasure of Washington people, without costing them a single dollar, the Government of the United States, at tremendous expense, maintains here in Washington the United States Marine Band, one of the finest in the whole world; also the United States Army Band, and the United States Navy Band, than which there are no larger or finer bands anywhere, and these bands not only give regular concerts free for the people of Washington, but regularly give radio concerts which are listened to by practically all Washington people.

The very large, wooded, well-kept park areas embraced within the public lands set apart to the National Soldiers Home here in Washington are constantly used and enjoyed by Wash-

ington people who regularly go there with their families to pick wild flowers, to picnic, and for outings, and not one penny does it cost them, for the Government pays all the expenses.

The Government of the United States at its own expense maintains the Commission of Fine Arts, most of whose time is expended on local civic matters for the beautification of Washington, and not one dollar does it cost the people here.

The United States for the present fiscal year appropriated $117,379 for the maintenance of the United States Botanical Gardens, situated in the heart of Washington, and daily enjoyed by thousands here, and it does not cost them one penny.

The plant of the Congressional Library is easily worth $15,000,000 and is maintained wholly by funds from the United States Treasury, yet it is daily enjoyed by thousands of Washington people without one penny cost to them.

The Supreme Court of the United States sits here. That brings thousands of visitors to Washington. All spend money here.

The Bureau of Internal Revenue with all of its appeal branches function here. This brings thousands of people here. Some are forced to remain several days. All spend much money. Washington people get the benefit of it.

The United States Patent Office is here. That brings many thousands of people here. They all spend much money, to the benefit of Washington people.

The Comptroller General and General Accounting Office function here. This brings thousands of claimants and their attorneys here. They all spend much money. Washington people benefit by it.

The United States Veterans' Bureau is situated here. This causes thousands of people to come to Washington. And they all spend money. Washington people get it.

The United States Pension Office is here. This causes thousands of people to come to Washington. They all spend their money freely. It goes into the pockets of Washington people.

The Executive Offices of the White House operate here. Thousands of people come here constantly to see their President. They spend much money. Washington people deposit it in their Washington banks to their credit.

The Bureau of Far Eastern Affairs, the Bureau of Western European Affairs, the Bureau of Latin-American Affairs, the Bureau of Near Eastern Affairs, the Bureau of Mexican Affairs, the Bureau of Passport Control, the Bureau of Foreign Service Administration, the Bureau of the Budget, the Federal Farm Loan Bureau, the Bureau of Engraving and Printing, the Bureau of Public Health Service, the Bureau of Insular Affairs and all of the numerous other bureaus in the War Department, the Bureau of Navigation, the Bureau of Yards and Docks, the Bureau of Ordnance, the Bureau of Construction and Repair, the Bureau of Engineering, the Bureau of Supplies and Accounts, the Bureau of Medicine and Surgery, the Bureau of Aeronautics, the headquarters of the United States Marine Corps, and the many boards in the Navy Department, the General Land Office, the Office of Indian Affairs, the Bureau of Education, the Bureau of Reclamation, the Weather Bureau, the Bureau of Animal Industry, the Bureau of Dairying, the Bureau of Plant Industry, the Forest Service, the Bureau of Chemistry, the Bureau of Soils, the Bureau of Entomology, the Bureau of Biological Survey, the Bureau of Public Roads, the Bureau of Agricultural Economics, the Bureau of Home Economics, the Fixed Nitrogen Research Laboratory, the Packers and Stockyards Administration, the Grain Futures Administration, the Insecticide and Fungicide Board, the Federal Horticultural Board, the Bureau of the Census, the Bureau of Foreign and Domestic Commerce, the Bureau of Standards, the Bureau of Fisheries, the Bureau of Lighthouses, the Coast and Geodetic Survey, the Steamboat Inspection Service, the Bureau of Mines, the Bureau of Labor Statistics, the Bureau of Conciliation, the Bureau of Immigration, the Children's Bureau, the Bureau of Naturalization, the Women's Bureau, the United States Employment Service, the Bureau of Industrial Housing and Transportation, the National Museum, the Astrophysical Observatory, the National Academy of Sciences, the Pan American Union, the Interstate Commerce Commission, the United States Railroad Labor Board, the Civil Service Commission, the United States Bureau of Efficiency, the Federal Reserve Board, the Federal Trade Commission, the United States Shipping Board, the United States Shipping Board Emergency Fleet Corporation (the last two of which handle public money by the hundred million), the United States Railroad Administration, the War Finance Corporation, the Federal Board for Vocational Education, the Panama Canal Bureau, the Board of Road Commissioners for Alaska, the American National Red Cross, the National Advisory Committee for Aeronautics, the International Joint Commission, the International Boundary Commission, the Federal Power Commission, the United States Geographic Board, the Inland Waterways Corporation, the World War Foreign Debt Commission, the Federal Narcotics Control Board, the American Battle Monuments Commission, the Personnel Classification Board, the Post Office Department, the Department of Justice, Prohibition Enforcement, and the many, many other institutions of the Government all attract thousands upon thousands of people to Washington each month during the year, and they all spend their money freely while here, and it is the people of Washington who benefit financially by it, for the money spent goes into their pockets, and into their bank accounts in Washington.

Every American who visits the shrine of George Washington at Mount Vernon must come to Washington and leave quite a little sum here when departing.

Thousands of Americans who have no business whatever here come to Washington simply because it is the seat of government, and the people here profit daily by it.

During the debate in May, 1924, former Congressman Charles R. Davis, of Minnesota, who was the chairman of the subcommittee of the Appropriations Committee which regularly framed the District of Columbia appropriation bill, stated that during the 22 years he had been in Congress the Government of the United States had donated to the people of the District of Columbia to help pay their local civic expenses in Washington the enormous sum of $190,000,000. This was for local civic expenses that the people of other cities must pay for themselves. This did not include any portion of the enormous sums the Government spends in Washington annually for its own institutions, and this did not include the sums that are annually carried in the Interior Department appropriation bill for St. Elizabeths Hospital, the Freedmen's Hospital, and Howard University, all local institutions here, which sums are taken wholly out of the Treasury of the United States.

Each city in the United States maintains a chamber of commerce. Its purpose is to secure institutions with large pay rolls to locate with them, so that such money may be distributed in their city. Big pay rolls make growth automatic. Big pay rolls increase local bank deposits. Big pay rolls cause local property values to increase. But Washington needs no chamber of commerce; Washington needs no reaching out after pay rolls. The Government institutions here have done for Washington what expensive chambers of commerce have been unable to do for many cities.

What city has in it an attraction half so great as the Washington Monument, with its beautiful grounds, daily enjoyed by the citizens here? What city has in it so great an attraction as the superb Lincoln Memorial, with its beautiful reflecting pools, upon which all Washington does its ice skating during winter?

In many cities the chamber of commerce lives in the constant fear that some of its large pay-roll plants will not be successful, and that their failure will throw many persons out of jobs, which would cause stagnation in business. No such fear exists in Washington. It is the Government of the United States that pays off twice each month. The money is always forthcoming. There is never any fear of failure.

No wonder $100 lots here have gone up to $100,000. No wonder merchants here who started years ago with little peanut joints now own their many-storied department stores. No wonder men formerly of no financial means who invested a few hundred dollars in real estate have become influential financiers. The Government has been their transforming fairy.

Yet, after our generous Government has done so very much for Washington people—and they still paid a tax rate last year of $1.40 on the $100, and this year $1.70 on the $100—their city commissioners and their city newspapers and Congressman HAMMER condemn Congress and the Government as parsimonious because I insisted on the District Committee amending the bill sent us by the Commissioners of the District so that this $600,000 for new park ends should be paid out of the $5,237,528.75 which Congress recently gave to the people of Washington, and that same be not paid out of the United States Treasury, as said District Commissioners selfishly hoped it would be.

The following are headlines of a front-page article in the Washington Star of January 7, 1926:

Object of placing on District entire cost of park sites—Commissioners say provisions of House bill are manifestly unfair—Want United States to pay half.

One would expect the Engineer Commissioner of the District of Columbia, Col. James Franklin Bell, whose salary and emoluments are paid by the people of the United States, to view the matter from the standpoint of the whole people of the United States, and not from the selfish standpoint of a Washingtonian. But the Star quotes him as saying:

The bill originally was worded so that the entire cost of the project would be paid by the Federal Government, Commissioner Bell explained.

And that is exactly the way this bill was introduced and came before our committee, framed and worded so that the entire $600,000 would come out of the United States Treasury.

Commissioner James Franklin Bell lives in Washington. His home is in Washington. He is taxed in Washington. When it is necessary for him to pay only $1 to register his limousine and receive number plates for it, he can use the balance of the money that citizens of all other cities have to pay for registering their automobiles elsewhere, in buying something extra with it. If he can get the Government of the United States to pay half of the expense of furnishing him paved streets and alleys; removing his ashes, garbage, and trash from behind his residence; furnishing, planting, spraying, pruning, and maintaining his trees in front of his residence; lighting his street and alley; furnishing his police and fire protection; furnishing and maintaining schools, free text books, teachers, and playgrounds for his children; furnishing and maintaining free amusement parks for recreation; furnishing and maintaining his hospitals, asylums, courts, jail, water, sewer, and all other civic privileges that citizens of other cities must furnish themselves, so that his tax rate is only $1 on the $100, as against $2.75 and up on the $100 that others have to pay—if he can get the Government to do this for him, of course he wants it done, for he saves money each year, and it increases the value of his property holdings each year.

Congress just recently passed Public, No. 202, Sixty-eighth Congress, approved June 6, 1924, providing for the appropriation of $1,100,000 each year for 20 years to be spent for parks and playgrounds in the District of Columbia. That ought to be sufficient authorization for parks without the passage of this new bill.

I am afraid that Congressman WILLIAM C. HAMMER, in wanting to return to the ridiculous old 50-50 plan, shows very much more consideration for the people of Washington than his own State of North Carolina shows to his home folks in Asheboro.

I have a telegram from Hon. D. B. McCrary, mayor of Asheboro, N. C., and he tells me that Asheboro people have an exemption of only $300 personal property free from taxation. Congressman HAMMER allows Washington people an exemption of $1,000 personal property free from taxation. Hon. Howard M. Jackson, mayor of Baltimore, wires me that Maryland people in Baltimore are allowed an exemption of only $500 personal property free from taxation.

Mayor McCrary wires me that the owner of a Ford in Asheboro, N. C., must pay $13.50 to register it. Owners of finer cars pay more in proportion. Mayor Jackson wires me that Maryland people in Baltimore must pay 32 cents per horsepower to register their automobiles in Baltimore. Yet, Chairman ZIHLMAN, of Maryland, and Congressman WILLIAM C. HAMMER, of Asheboro, outvoted me and permit the owners of Pierce Arrows, Lincolns, and Rolls-Royces here in Washington to register same and get their number plates for only $1 each per year. Washington people get quite an inside there. And when passing that provision Chairman ZIHLMAN very frankly told the House that the reason he did not want them charged more was that Washington did not need the money. The reason it did not need the money is that Washington people have been getting their big hand-outs from the People's Treasury of the United States.

The highest tax rate that the people of Washington paid under the 50-50 system to which Congressman HAMMER wants to return was $1.10 on the $100. Under the 60-40 system they paid $1.20. Under the Cramton amendment we passed to apply to the last fiscal year they paid $1.40 on the $100, and under the $9,000,000 allowed this fiscal year by the Government they pay $1.70 on the $100.

But what do the people of Baltimore pay? And what do the people of Asheboro, N. C., pay? Mayor McCrary, of Asheboro, wires me that citizens of Asheboro pay a tax rate of $2.95 on the $100, covering city, county, and State taxes, which is $1.20 per $100 more than Washington people have ever paid. Mayor Jackson, of Baltimore, wires me that citizens of Baltimore, just 40 miles from Washington, pay a city tax rate of $2.48 on the $100, and also pay an additional tax of 27½ cents on the $100 to the State, making over $2.75 on the $100 that they pay as against only $1.70 on the $100 that Washington people pay. Mayor Jackson wires me that household property in Baltimore with a frontage of over 12 feet pays a flat water rate of $32.50 per year, while my family here in Washington, living in a house with 22 feet frontage, pays for all the water we need only $6.25 per year.

Mayor Edward N. Woodruff, of Peoria, Ill., advised me in 1923 that water there for a family of seven costs $25 per year. He advised me that the entire cost of street and alley pavements in Peoria had to be paid by abutting property, and that the entire cost of sewer installation had to be paid by the property in the entire sewer district, and that the cost of sewer connection per household was about $50.

Now, in comparison, note what Daniel J. Donovan, auditor of the District of Columbia, wrote me:

For service sewers the law at present provides for a flat rate assessment of $1.50 per front foot, with certain deductions made for corner property. The rate represents approximately 37 per cent of the cost of the work.

The special assessments received for the several forms of improvements indicated are paid into the Treasury of the United States, 60 per cent to the credit of the District of Columbia and 40 per cent to the credit of the United States, this being the proportion that each bears of the appropriations for the improvements.

For water mains the law provides a special assessment of $2 per front foot, and this amount represents approximately 66 per cent of the cost of the work. Water-main assessments when received are paid into the Treasury of the United States to the credit of the water-department fund.

MAKING WASHINGTON BEAUTIFUL DOES NOT MEAN EXEMPTING PEOPLE HERE FROM TAXES

I am for making Washington the most beautiful city in the world. I am for taking every million dollars out of the Treasury of the United States for the Government to spend to do it that is justly needed, but I am not willing to continue taxing the already tax-burdened people of this country, who have to pay their own large taxes at home, to pay the civic expenses here, and then let these specially favored, petted, pampered, spoiled people in Washington pay only $1.20 on the hundred and enjoy all the benefits of this great city at the expense of our constituents back home, under the old 50-50 arrangement.

Take this magnificent Congressional Library that would cost at least $15,000,000 now—is not it enjoyed by every citizen of the District? Take the magnificent Smithsonian Institution, the magnificent museums here, the art gallery, the magnificent parks, the magnificent playgrounds. Are not the people of the District of Columbia getting the benefit? And yet they want to tax the Government of the United States more than $9,000,000 a year, which the Cramton amendment offers them, for the very property that they enjoy hourly here in this District.

THE OLD SLOGAN HAS WORN THREADBARE

Whenever a Member of Congress seeks to change the unjust system of taxation here the newspapers and citizens' associations immediately resort to their old battle cry—

That Washington is the Nation's Capital and must be made the most beautiful city in the world; that the Government should pay a big part of the local city expenses, because it owns so much property here.

Washington is the Nation's Capital and should be made the most beautiful city in the world, and I will go just as far as any other man through all legitimate and proper means to make it the most beautiful city in the world.

The business men of Washington are a bunch of splendid fellows personally. I like them all. Many of them are my personal friends in spite of my fights against their selfish demands. They know that I am right. They know deep down in their hearts that I am doing my duty. But they have enjoyed these hand-outs from the Federal Treasury for so long that they hate to give them up.

The following will show what taxes the people of Peoria, Ill., have to pay:

[City of Peoria, Ill., mayor's office. Edward N. Woodruff, mayor]

NOVEMBER 1, 1923.

Hon. THOMAS L. BLANTON,
Representative, Washington, D. C.

DEAR SIR: Answering your questionnaire of October 15 concerning relative tax rates of the cities of Washington and Peoria:

The tax rates on each $100 taxable valuation levied against the real and personal property of the citizens of Peoria for the year 1922 is itemized as follows:

City, corporate tax, including library, tuberculosis, garbage, and police and fire pension fund	$1.94	
Street and bridge	.24	
School district	2.70	
Park district	.41	
		$5.29
State	.45	
County	.59	
County highway	.25	
		1.29
Total, all purposes		6.58

Unless there is a tremendous revenue derived from sources other than from taxes, the rate of $1.20 for Washington is ridiculous. While I have never had my attention called to this disparity, I am amazed that the light has not been let into financial affairs of the Capital City long before this time.

You should be supported by every colleague in your effort to compel the citizens of Washington to do theirs, even as every citizen outside the District is doing his.

Wishing you success, I am,

Very truly yours,

E. N. WOODRUFF, *Mayor.*

Mr. Cornelius M. Sheehan, president, and Mr. Leo Kenneth Mayer, director, respectively, of the American City Government League, advise me that the tax rate in the city of New York is as follows:

Taxes in city of New York

City purposes	$1.287
School purposes	.555
Debt charges	.619
County charges	.096
State charges	.171
Total city tax rate	2.728

REASONABLE TAX RATE FOR WASHINGTON

All I want is that there should be a reasonable rate of taxation for Washington people. If they will find out what is the lowest rate of taxation in any city of the United States and establish that lowest rate as the tax rate for Washington, then, for one, I shall be satisfied, and they will see me cease fighting, for the money they will raise, together with fair appropriation from the Government each year, will give them all the money they will need for sound, substantial, constructive, proper improvement each year.

LOYAL FRIEND TO DISTRICT

Because for nine years here I have led the fight against the ridiculous tax rate in Washington, and my fight has been determined and uncompromising, the distinguished assistant editor of the Washington Times designates me as "The Texas Wild Cat." That is my reward for doing my duty. If, like Congressman HAMMER, I would declare for a return to the 50-50 system, all the papers here with front-page columns would herald me as a wise statesman.

But after all, I am a better friend to Washington than some Washingtonians imagine. Why are so many people, papers, and magazines now knocking Florida? It is because other places are jealous of Florida's boom. When people of other States and other cities find out that Washington property is soaring sky-high, and Washington people are becoming rich until their income taxes exceed many other cities, and that such conditions have been brought about through much of the civic expenses here being paid by the whole people of the United States, they are going to have a reaction unfavorable to Washington and are going to be jealous of such situation, and it is going to hurt Washington people and Washington property.

Congressman HAMMER will remember that when in the Sixty-eighth Congress he was insisting on continuing the Rent Commission, which had kept property from lawful owners ever since the war, I led the fight against such proposal, and the Rent Commission died and property went back to owners and they have now begun to improve same, and they have reduced rentals, and rental conditions here now are better than they have been for many years. Newspapers condemned me then, and Washington people condemned me then, for fighting to kill their Rent Commission, but time has proven that I was their friend after all.

Congressman HAMMER must not be permitted to carry out any move to return to the old 50-50 system, for it is vicious and against the interests of the people of the United States and not for the best interests, after all, of Washington people.

But I desire to use the rest of my time to discuss another proposition of great moment to Washington people. When the street-car companies of this District got a charter from Congress—the Capital Traction Co. and the Washington Railway & Electric Co.—to run their street-car tracks down the main streets of this city, to the exclusion of every other street-car company in the world, they obtained a most valuable right. It was a right that belonged to the Government and the people of this city, and Congress wisely provided in that charter, which was a contract between these companies and the Government, that they should never charge the people of this District more than 5 cents street-car fare. It provided they should never charge the little school children of the District more than three-fourths of the adult fare, provided the children bought as many as 20 fares at one time and paid cash for them. Yet in the face of that charter, since the war came on, the Public Utilities Commission, which is constituted ipso facto by the three Commissioners of the District, have let these street-car companies rob every family in the District and charge them 8 cents car fare, and they charge the 66,000 little school children here 8 cents car fare or 16 cents a day if they have not the money to buy tokens at 6 for 40 cents.

Mr. SPROUL of Illinois. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman.

Mr. SPROUL of Illinois. Does not the gentleman know that every other city that has a street railway line charges even more than what they charge in Washington?

Mr. BLANTON. Oh, no.

Mr. SPROUL of Illinois. Oh, yes.

Mr. BLANTON. That splendid street-car system in the city of New York charges only 5 cents, and it has never charged more, even through the inflated war years.

Mr. SPROUL of Illinois. And how long a haul do they give you for the 5 cents?

Mr. BLANTON. They give you 25 miles, if you want it. You can go down in the subway in New York and ride all day long for 5 cents if you want to ride and do not go out the gates. [Laughter.] And I can mention several other large cities with splendid street-car service for 5 cents, but here they charge 8 cents. Why do they do it? They do it because Congress lets them do it.

In the last Congress, the Sixty-eighth Congress, I introduced a bill to require the Public Utilities Commission to bring these railways back to the contract agreements in their charters. But immediately, to my great surprise, the commissioners filed against my bill a more elaborate argument than could have been prepared by the combined general counsels of the corporations themselves. And the commissioners killed the bill.

I expected the street railways to file an argument against it, and to fight it, and I was prepared to meet them, but the commissioners did the work for the railway lawyers, and killed the bill without permitting me to present the people's side of it.

After Congress adjourned last March I remained here in Washington and worked the entire vacation. When, on April 25, 1925, the Washington Post heralded that the North American Co. from New York had opened offices in the Earle Building and was to spend $50,000 making a survey of traction and traffic conditions here in Washington I kept my eyes open for developments. The higher ups had reached the conclusion that I was one Member here who was determined to get them back to their contract fare of 5 cents demanded by their charters, and I expect some such action to be taken in an attempt to head me off.

As soon as we met on December 7, 1925, I reintroduced my bill (H. R. 3805), which is as follows:

A bill to repeal and annul certain acts of the Public Utilities Commission of the District of Columbia

Be it enacted, etc., That any and all actions taken by the Public Utilities Commission of the District of Columbia permitting street railways to charge more than the maximum authorized in their respective charters be, and the same are hereby, annulled and repealed, and from and after the passage of this act no street railway company operating in the District of Columbia shall charge any fare greater than the maximum authorized in its charter. And the Public Utilities Commission shall not in the future authorize any street railway to charge fares greater than is authorized in its charter, and no charge greater than the charter authorization shall be permitted except by special act of Congress.

SEC. 2. From and after the passage of this act all street railway companies operating in the District of Columbia shall not charge school children in going to and from school on Monday, Tuesday, Wednesday, Thursday, and Friday in each week a fare greater than three-fourths the regular fare charged adults: *Provided,* That such school children shall purchase as many as 20 of such fares at a time.

And, following the custom, I had the chairman of the District Committee to send a copy of the bill to the commissioners for their recommendation. And again came back from the commissioners a most elaborate argument for the street railways, recommending that the bill be killed. But I did not let them off so easy this time. I wrote them the following letter:

WASHINGTON, D. C., *January 1, 1926.*

Hon. CUNO H. RUDOLPH, *President;*
Hon. FREDERICK A. FENNING,
Hon. JAMES FRANKLIN BELL,
Commissioners District of Columbia, Washington, D. C.

GENTLEMEN AND FRIENDS: During the past week, after making its first appearance through the press, there came to the Committee on

the District of Columbia your letter dated December 22, 1925, reporting unfavorably my bill, H. R. 3805, that would require the street railways of Washington to keep their agreement and perform their contract made with the people of Washington by not charging more than the 5-cent fare authorized by their charters. Inasmuch as you constitute the Public Utilities Commission, and these street railways could not have charged more than the 5 cents authorized by their charters unless you permitted it, and in the face of these charters, which provide that said railways shall never charge more than 5 cents, you have continued to permit them to rob the half million people here by charging them 8 cents, and the purpose of my bill was to have Congress annul your action, I very naturally did not expect you to approve it.

All of the high-salaried general attorneys of these street railways from Washington to New York combined together could not have framed a more adroit argument in their behalf than is contained in your letter. Even before asking you about it, I knew that none of you had any personal knowledge about it.

When I took the matter up with you individually, each one of you in turn admitted that you had no personal knowledge of the facts asserted in your letter, but that you were depending upon some one else for same.

President Rudolph very frankly admitted that he had to depend upon the office of Colonel Bell, who had charge of such matters, and that he signed such letters as president of the board without having personal knowledge of the correctness of the facts furnished by Colonel Bell's office.

Commissioner Fenning likewise frankly admitted that in the very nature of things he could not give all such matters his personal attention, but was forced to depend and rely upon the officials in Colonel Bell's office to compile such facts and to prepare such letters, and that he couldn't personally vouch for the correctness of the assertions, as he did not have personal knowledge of them.

As far as Colonel Bell would go was to say that he had general knowledge and felt morally certain that the facts stated, figures given, and conclusions drawn were all correct, although he did not dictate the letter and had no personal knowledge of the correctness of its contents, but that he had to depend upon his assistant, Maj. William E. R. Covell, for compiling the facts and upon Corporation Counsel Francis H. Stephens for the law.

I then took the matter up with Major Covell. He assured me that he did not dictate the letter and that he did not have any personal knowledge of the facts, figures, and conclusions stated therein, but that Secretary E. V. Fisher had prepared the whole matter, and was governed by the opinion of Mr. Stephens that these railways must be allowed to make a fair return on their investment.

So, after all, when traced back, your disapproval of this bill is founded upon the action of Secretary Fisher, guided by the opinion of Mr. Stephens.

I do not claim to be a legal wizard, but I have had 30 years experience around courthouses, 8 years of which I occupied the circuit bench in Texas, and I am willing to pit my ability to assemble facts against that of Secretary Fisher, and I feel that my opinion of the law should have equal weight with that of Mr. Stephens; hence, I am going to request, as a special favor to me, that you withdraw your disapproval of this bill from the District Committee and request Chairman ZIHLMAN to return it to you, and thus give me an opportunity to place my knowledge of the facts and my opinion of the law concerning this issue before you, and I feel sure that I can convince at least a majority of your board that this bill should pass.

The right to run a street railway through the streets of Washington is a most valuable right, and when the privilege is exclusive the right becomes doubly valuable. These rights and privileges belonged to the people and to the Government. When these street railways secured their charters they procured from the Government and from the people very valuable rights indeed. And in part payment for such rights these street railways agreed with the people and with the Government, and it was so specifically expressed in their charters, that they should never charge more than 5 cents fare. They should be held to their charter contracts.

I expect to show you that the stock of both companies has been going up constantly for several years, and that it is now higher than ever before in its history, and that it is higher than any comparable stock in the United States.

I expect to show you that respecting every group of men engaged in repair work for both companies, there is an average of as many as two-thirds of them idle all of the time, and that waste, indifference, and extravagance has gone to seed because the Public Utilities Commission has decreed that they shall have a fair return above all expenses. Mr. H. L. Bushong, of 1211 East Capitol Street, who is the president of his citizens association, will tell you that he saw 16 laborers and their foreman sit idle for an hour and five minutes on street-car repair work without moving a hand.

Your Secretary Fisher shows in the letter he prepared for you disapproving my bill that the Capital Traction Co. carried 2,160,153 less passengers in 1923 than it did in 1922; and that it carried 3,492,366 less passengers in 1924 than it did in 1923, and that for the first 10 months of 1925 it carried 11,518,101 less passengers than it did in 1924.

Secretary Fisher also shows in his letter which he prepared for you to sign disapproving my bill that the Washington Railway & Electric Co. system carried 5,191,263 less passengers in 1924 than it did in 1923, and that for the first 10 months of 1925 it carried 7,600,816 less passengers than it did in 1923.

To his mind this indicates that we ought to continue paying them 8 cents fare. To my mind it indicates that you are permitting these railroads to rob the people to such an extent that they have rebelled, and many have stopped riding street cars, whereas, if we restricted them to their charters, and permitted them to charge only 5 cents, which they agreed they would charge, and would never charge more, probably twice as many people would use the street cars, and at 5 cents fare, these railroads would have the chance of taking in 10 cents for every 8 cents they now receive. It is far more convenient to use street cars for shopping than it is automobiles, on account of scarce parking space, and if they were not robbed the people would use the cars generally.

When on April 25, 1925, the Washington Post carried the headlines "Big New York corporation quietly starts work of fact finding," and went on to tell us that the North American Co., of New York, had opened offices in the Earle Building, and had begun a traction survey upon which it was to spend $50,000, and that your commission was to supervise the survey, I incidentally watched proceedings.

I was interested because in the Sixty-eighth Congress I had introduced a similar bill to restrict these companies to their charter authorization of 5 cents, and immediately there came from the office of Colonel Bell a similar strong argument against it, but at that time I did not know that it was an office secretary who was acting both as the embalmer and funeral director for my bill. But I then exhibited such a strong determination to try to pass it over Colonel Bell's veto that I rather expected some new move to head me off.

So the summer passed, and when Congress met on December 7 I introduced my new bill No. H. R. 3805. And the committee sent a copy to you commissioners. Within a few days there was delivered at my office by special messenger two very large splendidly bound in full morocco leather volumes, each 8½ by 11 inches, and nearly 2 inches thick, with the top of the pages entitled:

"Public Utilities Commission, District of Columbia, 1925 transportation survey."

I learned from all three of you that you had nothing whatever to do with this work, but that the North American Co., of New York, had it done at its own expense; and I learned from Major Covell that these two volumes cost the North American Co. $70,000.

Now, why did it spend this $70,000? Does it cast its bread upon the waters without expecting Biblical returns? This North American Co. of New York owns 75 per cent of the common stock of the Washington Railway & Electric Co. It owns the controlling stock in the Capital Traction Co. And it owns the controlling stock in the Washington Rapid Transit Co. It is interested in having 8 cents fare on street cars in Washington, and it is interested in selling 6 fares for 50 cents on its busses, which take up two-thirds of the street, observe no traffic rules, will run right over you if you don't get out of their way, and will drive around a new Pierce-Arrow if it doesn't break the speed limit. And I find that these two $70,000 volumes have been delivered to other Congressmen and to Senators. And I have perused them carefully. And if I were you commissioners, I would take my names off of the tops of these voluminous pages, for most of them are specially prepared "bunk" to gull commissioners and Congress with.

I expect to do my own thinking and not let these traction companies prepare my facts for me. The only pledge I have taken on this New Year Day is that I am going to match wits with Secretary Fisher and Corporation Counsel Stephens in overcoming your objections to my bill, and in securing before Congress adjourns legislation that will bring these companies back within their charters, and thus give the half million people of Washington a 5-cent fare. It is a crime to permit these companies to charge 66,000 little children 8 cents fare in going to and from school. In no other comparable city in the United States is it done. And when we force them back to their charters, if they want to go to court about it, I will tender you and the people here my services gratis in defending the 5-cents fare all the way to the Supreme Court of the United States.

Very truly yours,

THOMAS L. BLANTON.

GREAT REACTION

I must quote the following excerpts from the Washington newspapers to show that I correctly sized up the situation:

[From the Sunday Star, Washington, D. C., January 3, 1926]

BLANTON UPHELD BY COMMISSIONERS—COLONEL BELL SAYS HE FAVORS WITHDRAWING OPPOSITION TO 5-CENT FARE

Engineer Commissioner J. Franklin Bell announced last night that he plans to reply favorably to the communication of Representative

THOMAS L. BLANTON asking the commissioners to withdraw their opposition to his 5-cent car-fare bill, on the ground that the commissioners had not directed the unfavorable report.

The letter representing the position of the commissioners, Mr. BLANTON pointed out, was drafted by Earl V. Fisher, executive secretary of the Public Utilities Commission, who was governed by the opinion of Corporation Counsel Francis H. Stephens. Colonel Bell indicated that he would tell Mr. BLANTON that the commissioners left the framing of the letter to the commission's experts because of the pressure of other official business.

"I am going to tell Mr. BLANTON that I am in hearty accord with his statements," said Colonel Bell.

[From the Washington Post, Sunday, January 3, 1926]

COLONEL BELL ADMITS TRUTH OF BLANTON TRACTION CHARGES—THE ENGINEER COMMISSIONER AGREES DISTRICT HEADS CAN NOT FUNCTION ON BODY—GIVES THIS AS REASON FOR REORGANIZATION

Charges by Representative BLANTON, of Texas, yesterday that the District Commissioners know little of local traction affairs, and that they had based their opposition to his 5-cent bill on the knowledge of a secretary, met with prompt admission by Commissioner J. Franklin Bell.

"I agree with you heartily," said Colonel Bell in a reply. "I long have maintained that under the present arrangement we can not keep ourselves well enough informed about utilities to function correctly as members of the utilities commission."

For that reason, Colonel Bell said, the commissioners had submitted a bill reorganizing the public utilities commission, and he asked Mr. BLANTON to support it.

This North American Co. of New York just a few days before this Congress convened sent us two documents like this I hold in my hand, bound in full Morocco leather, and these two volumes cost $35,000 apiece to the North American Co. Do you know what it is? I am about the only man in Washington who reads them. [Laughter.] It is my business to read them. I want to tell you what it is; it is nothing in the world but bunk specially prepared for these commissioners to use in trying to argue the people of Washington out of a 5-cent street-car fare, to which they are entitled.

The North American Co., I am told by Colonel Bell and Major Covell, own 75 per cent of the common stock of the Washington Electric Railway Co., that it owns a big lot of stock of the Capital Traction Co., and that it owns nearly 100 per cent of the Washington Rapid Transit Co.—that is, the bus line which, if you drive your car up and down the street, you will have to get out of the way of to keep from getting run over. Those busses observe no traffic laws, they observe no signs, they observe no traffic stops, they go up and down the avenue and up and down the streets as they please, and if you are in a Pierce-Arrow and if you do not exceed the speed limit, they will run around you or run over you.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. JOHNSON of Texas. As to the number of busses, are they not grossly inadequate for the school children? I came down Pennsylvania Avenue this morning and there was a perfect mob of school children waiting for busses.

Mr. BLANTON. The poor little children of this city can not afford to ride these busses at 10 cents a ride or six rides for 50 cents. And they can not pay 16 cents a day to go back and forth on these street cars to school each day at 8 cents car fare. Every time I come to my office in my automobile on a school day, I pick up a car full of school children and bring with me. Every time I go home in the evening and find them on the street, I take them in and give them a ride. I have children of my own, and I hope some one will give my boys a lift if they need it.

Mr. HUDSPETH. Will the gentleman yield?

Mr. BLANTON. I will.

Mr. HUDSPETH. I am in full sympathy with the gentleman's bill, but I would like to ask him if he has investigated the revenue derived by the street-car companies.

Mr. BLANTON. There is no more wasteful corporations on earth than the street railway companies of this city. I have known instance after instance where they have had an army of laborers employed, and about 75 per cent of them spend almost their entire time doing nothing. They ought to discharge every foreman of works employed by the street railway companies and get new ones. [Laughter and applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLANTON. The gentleman from Maryland was to give me five minutes.

Mr. ZIHLMAN. The gentleman only requires 75 per cent of the time, but I yield him five additional minutes.

Mr. BLANTON. Well, we got that much out of the chairman toward a 5-cent fare, did we not? [Laughter.] But he is all right. I will say it is. I want to say this: That if these street railroad companies would stop their waste, if they would reduce the fare to what their charter requires them to do—to 5 cents—if they would make the fare for school children three-fourths of the adult fare, buying 20 at a time and pay cash, as their charters require, there would be twice as many people ride on the street cars as do now, and at the same expense to the railroad company, and they would take in more revenue than they do now. If we could take the stock of this railroad company, put it out in the street and run over it every day with our cars, like we do the snow, squeeze the water out of it like we do out of the snow, we could let them pay on their bona fide stock twice as much as they do now.

Mr. HOCH. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a minute. I want to get these facts before my colleagues. The trouble of it all is that the commissioners are not with us. When you go to court, if you want to win, you have got to have a proper record to stand on. When they have been to court heretofore the commissioners have had nobody down there to make a record for the people, and that is what I propose to do hereafter. Whenever this question goes to court again I am going to see to it that a proper record goes there presenting the people's side, and if I can not do it in any other way I shall do it as amicus curiae.

I wrote the vice president of this North American Co. and asked him to answer certain pertinent questions about his company and the ownership of the stock. He would not do it. He wrote me back an evasive letter, but did not answer a question. I then wrote their chief engineer and asked him certain questions. He wrote me back an evasive letter, and he would not answer the questions. That is the kind of service we get, and they then put a misleading statement in the Washington papers, but they admit that they own practically all of the Washington Rapid Transit Co.

What are we going to do about the situation? Are we going to sit here and let these Washington people be robbed every day by these street railway companies? If you gentlemen of the House will help us pass that bill to restrict these railway companies to their charters, I think the bill will be passed by the Senate, and I promise you that I will see to it that a proper record is made on which to go to the Supreme Court of the United States.

The CHAIRMAN. The time of the gentleman from Texas has expired. The gentleman from Maryland has one minute remaining.

Mr. ZIHLMAN. Mr. Chairman, I yield that one minute to the gentleman from Massachusetts [Mr. UNDERHILL].

Mr. UNDERHILL. Mr. Chairman, in the one minute remaining I want to bring the Members of the House back to the matter under consideration. This bill has nothing to do with street railways, has little to do with the commissioners, but considerable to do with the people of the District. Although my amendment was adopted in the committee, which takes the total amount of the cost out of the reserves of the District, while the amendment was offered in good faith, yet it was with the knowledge we never in the world would get this through Congress unless such a provision was incorporated in the bill. It is not entirely a just provision, but it is perhaps the best we could do. This is a little different from the other park propositions upon which we have acted, inasmuch as the title of this property still remains with the Federal Government. It is hardly a fair proposition, but the best that we can offer and the best that we can get. I do not know that there is any particular opposition to it.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. All time has expired. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That to enable the Rock Creek and Potomac Parkway Commission to complete the acquisition of the land authorized to be acquired by section 22 of the public buildings appropriation act approved March 4, 1913 (Stat. L. vol. 37, p. 885), for the connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, in addition to the sum authorized by said act of March 4, 1913, the sum of $600,000.

With the following committee amendment:

Page 2, lines 1 and 2, strike out "out of any money in the Treasury not otherwise appropriated," and insert "out of the surplus revenues

of the District of Columbia made available by Public law 358, Sixty-eighth Congress, approved February 2, 1925.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GILBERT. Mr. Chairman, I move to strike out the last word. I doubt if there is any necessity for this bill at all, because the last Congress went on record as authorizing $1,000,000 to be expended each year for 20 years. However that may be, I want to speak for just a moment in respect to the intimation that the surplus bill passed the last Congress without careful consideration upon the part of the District Committee. That the District has been treated very generously by the Federal Government and perhaps more so than was necessary was the opinion of every member of the District Committee, but because Congress had adopted a very generous agreement with the District that fact did not authorize Congress to violate that agreement. The gentleman from Texas [Mr. BLANTON] does cite statements from a minority view, but gentlemen should bear in mind that that was a minority view. A committee appointed by Congress itself investigated the situation and reported that we owed that money. That it acted unwisely or without consideration could be charged against the verdict of any jury or the decision of any court, but the fact remains that our own committee made that finding. It was the opinion of every member of the District Committee, with the exception of the gentleman from Texas [Mr. BLANTON], that, however generous we felt it might be, there was no honorable escape from it. I make these observations merely that the record shall not go unchallenged that in a matter involving millions of dollars the District Committee acted without the most careful consideration.

Mr. ZIHLMAN. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MERRITT, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee having had under consideration the bill H. R. 4785, had directed him to report the same back with an amendment, with the recommendation that the amendment be adopted, and the bill as amended do pass.

Mr. ZIHLMAN. Mr. Speaker, I move the previous question on the bill and amendment to final passage.

The motion was agreed to.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

On motion of Mr. ZIHLMAN, a motion to reconsider the vote by which the bill was passed was laid on the table.

JURISDICTION IN REFERENCE TO JUVENILE COURT

Mr. ZIHLMAN. Mr. Speaker, I call up the bill H. R. 4812 and ask unanimous consent that the bill be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 4812) to amend an act entitled "An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances," approved March 23, 1906

Be it enacted, etc., That the act entitled "An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or of his or her minor children in destitute or necessitous circumstances," approved March 23, 1906, be, and is hereby, amended so as to strike out the words "hard labor" wherever they shall appear in the act.

SEC. 2. Section 3 of the above-mentioned act be, and is hereby, amended as follows: Strike out the words "for each day's hard labor performed by such persons" and substitute therefor "for each day of the sentence served by such person."

The committee amendment was read as follows:

Strike out all after the enacting clause on page 1, line 3, down to and including line 7 on page 2 and insert in lieu thereof the following:

"That the first section of the act entitled 'An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances,' approved March 23, 1906, as amended, is amended by striking out the words 'at hard labor' wherever such words appear in such section.

"SEC. 2. Section 3 of such act of March 23, 1906, as amended, is amended by striking out the words 'for each day's hard labor performed' and inserting in lieu thereof the words 'for each day of the sentence served.'"

Mr. UNDERHILL. Mr. Speaker, I offer a substitute for the committee amendment, and may I say before the substitute is read that the substitute is the committee amendment, but it quotes all of these sections to which the amendment referred so that in the future, if one has to look up this law, they do not have to look up all of these references and hunt through the statutes to find them.

The SPEAKER. The gentleman from Massachusetts offers a substitute for the committee amendment, which the Clerk will report.

The Clerk read as follows:

SECTION 1. That sections 1 and 3 of an act entitled "An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances," approved March 23, 1906, are hereby amended so as to read as follows: "That any person in the District of Columbia who shall, without just cause, desert or willfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances, or any person who shall, without just excuse, desert or willfully neglect or refuse to provide for the support and maintenance of his or her minor children under the age of 16 years in destitute or necessitous circumstances, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $500 or by imprisonment in the workhouse of the District of Columbia for not more than 12 months, or by both such fine and imprisonment; and should a fine be imposed it may be directed by the court to be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children: *Provided*, That before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, or to the guardian or custodian of the minor child or children, or to an organization or individual approved by the court as trustee, and to release the defendant from custody on probation for the space of one year upon his or her entering into a recognizance, with or without sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise of full force and effect.

"If the court be satisfied by information and due proof, under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children."

"SEC. 3. That it shall be the duty of the superintendent in charge of the workhouse of the District of Columbia in which any person is confined on account of a sentence under this law to pay, out of any funds available, over to the wife, or to the guardian or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week for the support of such wife, child, or children, a sum equal to 50 cents for each day of the sentence served by said person so confined."

Mr. ZIHLMAN. Mr. Speaker, I accept the amendment, as it simply carries in the bill the existing law as it would read where amended.

Mr. MOORE of Virginia. Mr. Speaker, I think that what has been done at the instance of the gentleman from Massachusetts [Mr. UNDERHILL] establishes a good example which should be followed in amending existing statutes. Quite commonly existing statutes are amended so as to provide that a certain sentence or a certain paragraph or a certain line shall

be changed, and that may be done repeatedly in reference to the same original statute or the same section of that statute. That makes necessary a search through the Statutes at Large of perhaps several Congresses in order to ascertain what the law is. When an amendment is made in the form now proposed the statute is brought down to date, so that anyone examining the law as amended can see at a glance exactly how the amendment operates and what the law is. I am very glad that the committee has taken this course, and I regard it as a course that ought to be generally taken in enacting amendments. And this, I may say, is the course provided and required by many State constitutions.

Mr. WINGO. Will the gentleman yield?

Mr. ZIHLMAN. I will.

Mr. WINGO. What is the gentleman trying to do to this statute?

Mr. ZIHLMAN. I will say to the gentleman under the decision by the Supreme Court the jurisdiction of the juvenile court in cases of neglect and nonsupport of child and wife is vested only in the Supreme Court of the District of Columbia, it being construed by the Supreme Court that the juvenile court has no jurisdiction in cases of this kind, but it is proposed, by taking out the words "hard labor" where they appear in the existing statute, to reinvest the juvenile court with jurisdiction in those cases, many of which are of a minor nature. It has the sanction and concurrence of the Supreme Court of the District of Columbia.

Mr. WINGO. In other words, the Supreme Court of the District of Columbia has held that to require a married man in the District of Columbia to perform hard labor falls within the constitutional inhibition against cruel and unusual punishment?

Mr. ZIHLMAN. Well, the juvenile court has no jurisdiction under cases of that kind.

Mr. CHINDBLOM. As I understand it, the law as it is now and as it will be after it is amended as proposed by the committee will not provide any different penalty for different kinds of abandonment. I refer particularly to the person abandoned. Take, for instance, the case of a child of very tender years, an infant. There is no difference in the punishment meted out by this law for the abandonment of an infant and the punishment for the abandonment of any other child, is there?

Mr. ZIHLMAN. I will say to the gentleman from Illinois that we did not contemplate the change of existing law on this subject, except to give to the juvenile court jurisdiction in these cases. I will say further that the committee was advised by one of the learned justices of the Supreme Court that the term "hard labor" is very rarely used in imposing sentence, but it is presumed by the court that the prison authorities are competent to determine what work shall be performed by prisoners. The elimination of the words "hard labor" is the only change we make in the law, and it almost entirely eliminates it in the District in sentences.

Mr. CHINDBLOM. There are States in the Union where, for instance, the abandonment of a child of 1 year or less is a felony, whereas the abandonment of an older child or of a wife is a misdemeanor. In other words, the abandonment of an infant in those tender months is considered a much greater crime or offense than the other. I am not arguing whether you should amend the law, but I am wondering if the committee was asked to amend the law on that subject.

Mr. ZIHLMAN. There is a law to that effect, but I am not familiar with it.

Mr. UNDERHILL. Mr. Chairman, the chairman of the committee, in answering the questions put by various Members, has very well covered the situation. The reason for bringing this up was that under the old law there was a flagrant case where an old offender was brought before the court and ordered to pay $30 a week to his wife and family. He failed to do so and was hauled into court, and the Supreme Court held that imprisonment at hard labor was an infamous punishment under the clause of the Constitution that had been referred to, and consequently the legislation went by the board.

Mr. WINGO. The gentleman from Maryland a while ago rather led me to believe that the reason why you did this was that the Supreme Court had decided that requiring hard labor from a married man in the District of Columbia was a case of unusual and infamous punishment.

Mr. UNDERHILL. That may be a distinction without a difference. Of course, the welfare of minor children in the District of Columbia is a subject that we are all interested in, and that interest in the welfare of minor children is what was behind this legislation.

Mr. BLANTON. And the amendment came from a gentleman who is not a lawyer.

The SPEAKER. The question is on agreeing to the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

The SPEAKER. The question now is on agreeing to the committee amendment as amended.

The committee amendment as amended was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ZIHLMAN, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. ZIHLMAN. Mr. Speaker, I move that the House do now adjourn.

THE ITALIAN GIFT

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman withhold that?

Mr. ZIHLMAN. I withhold.

Mr. VINSON of Kentucky. Mr. Speaker, I ask unanimous consent to extend my remarks on the Italian debt.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. VINSON of Kentucky. Mr. Speaker, we will soon have under consideration H. R. 6773, which is the authorization of this Congress for the settlement of the indebtedness of the Kingdom of Italy to the Government of the United States of America, as per the terms clearly set forth in the bill supra.

This bill, H. R. 6773, was introduced by Mr. BURTON, of Ohio, on January 5, 1926, and was promptly referred to the Committee on Ways and Means. However, this committee, anticipating the introduction of the bill, began its hearings on January 4, 1926, and concluded its hearings on January 6, 1926. The only witnesses which appeared before this committee were the following distinguished gentlemen in the persons of Mr. Mellon, Secretary of the Treasury; Mr. Winston, Undersecretary of the Treasury; Mr. BURTON, of Ohio, a member of the Foreign Debt Commission and a Member of this House; Mr. CRISP, of Georgia, a member of the Foreign Debt Commission and a member of the committee; and the following members of the Ways and Means Committee: Mr. RAINEY, of Illinois; Mr. HULL, of Tennessee; Mr. TREADWAY, of Massachusetts; and Mr. MILLS, of New York. On January 8, 1926, H. R. 6773 is reported back to the House without amendment, with the recommendation that the bill do pass.

This bill comes to us for consideration as a result of the negotiations between the World War Foreign Debt Commission and the Italian Debt Commission, which consummated an agreement, reduced to writing and signed by the contracting parties, which has met with the approval of the President and has been ratified by the Kingdom of Italy. This settlement awaits the approbation of the American Congress to be of binding efficacy.

We know of no better manner of stating the exact status of the Italian debt, together with the specific method of payment prescribed in this bill, than to insert that portion of the contract executed by the high contracting parties, approved by our President, which relates to such specific points, which contract seems to be numbered Exhibit 74 in the hearings of our Committee on Ways and Means. We insert it herein:

EXHIBIT 74

AGREEMENT FOR THE FUNDING OF THE DEBT OF ITALY TO THE UNITED STATES

Agreement made the 14th day of November, 1925, at the city of Washington, D. C., between the Kingdom of Italy, hereinafter called Italy, party of the first part, and the United States of America, hereinafter called the United States, party of the second part

Whereas Italy is indebted to the United States as of June 15, 1925, upon obligations in the aggregate principal amount of $1,647,869,197.96, together with interest accrued and unpaid thereon; and

Whereas Italy desires to fund said indebtedness to the United States, both principal and interest, through the issue of bonds to the United States, and the United States is prepared to accept bonds from Italy upon the terms hereinafter set forth;

Now, therefore, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

1. *Amount of indebtedness:* The amount of indebtedness to be funded, after allowing for certain cash payments made or to be made by Italy is $2,042,000,000, which has been computed as follows:

Obligations taken for cash advanced by Treasury	$1,648,034,050.90	
Accrued and unpaid interest at 4¼ per cent per annum to Dec. 15, 1922	251,846,654.79	
		$1,899,880,795.69

Accrued interest at 3 per cent per annum from Dec. 15, 1922, to June 15, 1925		$142,491,052.93
		2,042,371,758.62
Deduct payments made on account of principal since Dec. 15, 1922	$164,852.94	
Interest on principal payments at 3 per cent per annum to June 15, 1925	7,439.34	
		172,292.28
Total net indebtedness as of June 15, 1925		2,042,199,466.34
To be paid in cash upon execution of agreement		199,466.34
Total indebtedness to be funded into bonds		2,042,000,000.00

2. *Payment:* In order to provide for the payment of the indebtedness thus to be funded Italy will issue to the United States at par bonds of Italy in the aggregate principal amount of $2,042,000,000, dated June 15, 1925, and maturing serially on the several dates and in the amounts fixed in the following schedule:

June 15—	
1926	$5,000,000
1927	5,000,000
1928	5,000,000
1929	5,000,000
1930	5,000,000
1931	12,100,000
1932	12,200,000
1933	12,300,000
1934	12,600,000
1935	13,000,000
1936	13,500,000
1937	14,200,000
1938	14,600,000
1939	15,200,000
1940	15,800,000
1941	16,400,000
1942	17,000,000
1943	17,600,000
1944	18,300,000
1945	19,000,000
1946	19,600,000
1947	20,000,000
1948	20,600,000
1949	21,200,000
1950	22,000,000
1951	23,000,000
1952	23,800,000
1953	24,600,000
1954	25,400,000
1955	26,500,000
1956	27,500,000
1957	28,500,000
1958	29,600,000
1959	30,500,000
1960	31,500,000
1961	32,500,000
1962	33,500,000
1963	34,500,000
1964	35,500,000
1965	36,500,000
1966	38,000,000
1967	39,500,000
1968	41,500,000
1969	43,500,000
1970	44,500,000
1971	46,000,000
1972	47,500,000
1973	49,000,000
1974	50,500,000
1975	52,000,000
1976	54,000,000
1977	56,000,000
1978	59,000,000
1979	61,000,000
1980	62,000,000
1981	64,000,000
1982	67,000,000
1983	69,000,000
1984	72,000,000
1985	74,000,000
1986	77,000,000
1987	79,400,000
Total	2,042,000,000

It can be seen that the Italian debt as of June 15, 1925, is the sum of $2,042,000,000. Under the settlement no interest charge for the 5-year period next following is made, which terminates June 15, 1930. During this first 5-year period, under the terms of the settlement, Italy agrees to pay $5,000,000 per year, or a total of $25,000,000. So, it can readily be seen that computing interest over this period at the present annual rate of 4.1 per cent per annum, which the Undersecretary of the Treasury, Mr. Winston, states to be the present rate paid upon our national indebtedness, we find that upon June 15, 1930, we will have paid an additional sum of $418,610,000 in interest upon our bonds, which represents the obligations incurred to procure the money which we loaned to Italy in her time of national stress. Adding this interest charge to the principal and deducting the $25,000,000 paid upon account, we find that Italy will owe us more than $2,400,000,000 before she pays one copper in interest upon said indebtedness. In other words, we will have paid out $800,000,000 in interest upon the bonds evidencing our obligation for the money obtained and loaned to Italy before they start paying any interest.

The original indebtedness incurred by Italy was more than the sum of $1,648,000,000, of which amount $1,031,000,000 was of prearmistice origin, while practically $617,000,000 was indebtedness incurred after the signing of the armistice. The interest rate upon the original indebtedness was 4¼ per cent per annum to December 15, 1922, with the interest rate of 3 per cent per annum from this latter date to June 15, 1925. With our present rate of 4.1 per cent per annum, no one would contend that the stated amount of Italy's indebtedness to us as of June 15, 1925, was more than she owed us.

Ofttimes we wonder if the American people are, in fact, cognizant of the condition which surrounds this debt. Of course, it would be a happy day to get our foreign debts funded upon such terms as would permit these governments to liquidate their indebtedness to us upon none too harsh terms. But, in my humble judgment, the American people expect the foreign governments to pay their obligations rather than to be compelled to pay such obligations themselves. And should this bill become a law we can not believe that it will meet with the approbation of the people of America once they learn its terms.

The American people, through the Federal Government, are indebted in the sum of $20,000,000,000. Upon June 15, 1925, more than $2,000,000,000 of this indebtedness was for obligations executed by our Government in the shape of bonds which had been sold and the proceeds thereof secured by Italy, either directly in the form of money or credit or indirectly in the form of interest paid upon their indebtedness. The American people must pay their debt, and it was in their minds and hearts during the Liberty loan drives in the prearmistice days that the vast sums being handed over to Italy and our other allies were loans, to be repaid with interest. Certainly the indebtedness incurred after the armistice was labeled in this manner. Every cent that the foreign governments fail in paying to this Government must be paid by the American people. We regret to realize that there is grave likelihood of this country suffering a vast loss in money in the event that this bill becomes a law.

We have heretofore funded the foreign debt of several nations. Great Britain owed us some $4,600,000,000. This obligation was settled on a basis of principal payments over a 62-year period, with interest at the rate of 3 per cent per annum for the first 10 years and 3½ per cent thereafter. England was the first country to settle its national obligation.

The annual interest rate for this settlement is 3⅜ per cent per annum. Rumania has settled upon the same basis. It is recommended that Belgium should pay on the same basis as England, with the exception that the prearmistice debt of $171,800,000, should be paid over the period of 62 years without interest, pursuant to the moral obligations incurred by our Government at Versailles. Finland, Lithuania, Poland, Hungary, and Nicaragua have settled upon practically the English basis. The indebtedness of France and Italy are the large ones not yet consummated.

THE INTEREST RATE

We quote from the testimony of Secretary Mellon before the Ways and Means Committee:

> From the United States standpoint, therefore, the question of whether a particular settlement represents a reduction in the debt depends on whether the interest charged over the entire period of the agreement is less than the average cost to us of money during that period. The flexibility in debt settlements is found in the interest rate to be charged.

We submit that this statement clearly sets forth the fact that whether a debt be paid depends on whether the interest charge over the entire period is less than that which we pay out in interest charge for a like sum during the same period.

So that there can be no misunderstanding of the interest rate charged Italy under this bill we, at this point, insert in full that portion of the bill which designates the rates of interest to be charged. It is found in lines 1 to 12, inclusive, on page 3 of the bill, and is set forth as follows:

> The bonds to be issued shall bear no interest until June 15, 1930, and thereafter shall bear interest at the rate of one-eighth of 1 per cent per annum from June 15, 1930, to June 15, 1940; at the rate of one-fourth of 1 per cent per annum from June 15, 1940, to June 15, 1950; at the rate of one-half of 1 per cent per annum from June 15, 1950, to June 15, 1960; at the rate of three-fourths of 1 per cent per annum from June 15, 1960, to June 15, 1970; at the rate of 1 per cent per annum from June 15, 1970, to June 15, 1980; and at the rate of 2 per cent per annum after June 15, 1980, all payable semi-annually on June 15 and December 15 of each year.

We have heretofore called to your specific attention in the portion of the debt settlement inserted herein that there was no interest paid to this Government until June 15, 1930. Now when the debt begins to bear interest, we are astonished to find that the rate of interest upon the obligation is next to nothing. Kindly keep in mind the statement made by the distinguished Secretary of the Treasury, above quoted, that—

the question of whether a particular settlement represents a reduction in the debt depends on whether the interest charge over the entire period of the agreement is less than the average cost to us of money during that period.

At this time, we repeat the average interest rate paid by us upon our indebtedness is 4.1 per cent per annum and, according to the gentleman best qualified to know, Mr. Mellon, Secretary of the Treasury, the average annual interest rate paid by Italy, under this bill, is forty-two one-hundredths of 1 per cent. What a vast difference the position of the decimal point makes. The present interest rate of this Government is practically 10 times the average rate under this funding agreement. We wonder if the people of this country appreciate just what the position of that decimal point means to them in dollars and cents. Even should the cost of money to us through this same period be lowered to 3 or 3½ per cent, still the rate of interest, which we would be compelled to pay, would be between seven and eight times as much as we would be receiving from Italy.

We will compare the amount of interest which this Government would pay upon $100 at the present rate at which she borrows money, 4.1 per cent, for the period of 62 years, with the amount of interest she would receive from Italy for the same amount over the same period of time, at the average annual rate prescribed by this bill. We find that during this period America would pay out in interest $254.20 for her loan, and would only receive the sum of $27.30 from her debtor, Italy. We pay out almost ten times as much as we would receive.

But some will say that we will be able to secure money at a lesser rate in the future. That, of course, is problematical, but assume we could get it through this period of 62 years at the average annual rate of 3 per cent per annum. A loan of $100 for this period would cost us in interest $186 as against the sum of $27.30 which Italy would pay on a loan of like amount.

But let us get down to interest talk that the people back home, as well as myself, are personally acquainted with. We will take the 6 per cent rate—that is the least rate upon which we can procure money from our banks in Kentucky. Over this period of 62 years, interest on $100 at 6 per cent amounts to $372 as compared to the sum of $27.30, which is paid by Italy for a like amount for a like period.

We submit a table showing the amount in interest that will be paid under this bill for a loan of $100 during the first 35 years of the plan:

Period	Annual interest percentage	Annual interest money	Total interest for period
1925–1930	0	0	0
1930–1940	One-eighth of 1 per cent	$0.12½	$1.25
1940–1950	One-fourth of 1 per cent	.25	2.50
1950–1960	One-half of 1 per cent	.50	5.00

Thus we find that under the proposed plan Italy during the next 35 years would pay us approximately $8.75 for the use of $100 for that period, whereas at 3 per cent it would cost us $105; at 4.1 per cent it would cost us $143.50; and at 6 per cent it would cost us $210.

BELGIUM

Not only will we discriminate against our own pepole, but we have discriminated against that brave little people who unto the rolling down of the curtain of eternity will challenge the admiration of the world in their stand against the powerful trained troops and fresh ones of the Kaiser in the early war days. Historians now and hereafter will credit their work as a miracle that saved Europe and the world from the ravages of a war-mad King. How do we treat Belgium as compared with Italy?

Seemingly around the tables at Versailles we agreed that her prearmistice debt would be canceled. But we do not do it. In lieu of this agreement we permit her to pay over a period of 62 years her prearmistice obligation without interest. Then in respect of the postarmistice debt we treat with her exactly as we do with England. Considering the Belgian debt as a whole, the average annual interest rate is 1.84 per cent; in other words, approximately four times the average annual interest rate of Italy.

In money we will receive from Belgium as interest charge the sum of $7,687,520 per annum, the total interest for the 62 years being $476,626,000. The total indebtedness of Belgium is $417,800,000. Whereas from Italy we will receive as an interest charge $5,887,000 per annum; the total interest charge being $365,000,000. Italy's indebtedness is more than $2,000,000,000.

GIFT TO ITALY

We wonder if the American people realize how exceedingly generous this Government desires to be to Italy—at their expense.

As heretofore stated, the amount of the Italian debt as of June 15, 1925, was $2,042,000,000. Considering the rate of interest at 4¼ per cent per annum, the present value of the payments made through the 62-year period, or, in other words, the present value of the settlement, is $538,000,000; and with a 3 per cent interest charge the present value of the settlement is $791,000,000. In other words, we have expended money from our Treasury as of the date of the settlement in the sum of $2,042,000,000, and this obligation as of that date, upon the same rate of interest which we have paid since we secured this money for Italy, is worth $538,000,000, or $1,504,000,000 less than we have invested in it. If the 3 per cent basis be used, with the present value of the settlement being $791,000,000, it is easily seen that we are $1,251,000,000 in the hole. In other words, if we were to square the books as of the date of the debt settlement, either by the payment of the present value of the settlement by Italy or by the negotiation and assignment of the present value of the debt agreement, we would lose between one and one-quarter to one and one-half billion dollars. Of course, whatever interest we would pay upon this sum would be an additional loss.

Another angle at which this loss may be viewed is contained in the views of the distinguished gentleman from Tennessee [Mr. HULL], page 14 of report, in this language:

I am impelled to the conclusion, however, that the proposed settlement is not a reasonable settlement, but is more in the nature of a cancellation. The amount of this debt, with interest under the 62-year plan of payment, would, I am told, aggregate near $5,500,000,000. The amount of the proposed settlement is $2,042,000,000 plus interest of $365,577,000 to be paid during 62 years, or a total of $2,400,000,000 in round figures. This shows a scaling under the 62-year payment plan of near $3,000,000,000, or, when compared with the terms of the British settlement, of near $2,500,000,000.

The American people was felicitated by the distinguished leader of the majority, the gentleman from Connecticut [Mr. TILSON], near the adjournment of Congress for the holidays, as a result of the reduction of the Federal tax burden of the people in the sum of $325,000,000. It occurs to me that this debt settlement having been made on November 14, 1925, making this gift to Italy in the sum of $3,000,000,000, it might have been well to have included Italy in the words of felicitation, because their gift was practically ten times that which has been bestowed upon the American people. Divide $3,000,000,000 by 62 and you will find that you will get practically $50,000,000, which represents the annual gift of this country to Italy in the event that this settlement shall be ratified. Fifty million dollars per year, or more than a hundred and thirty-five thousand dollars per day, a gift out of the pockets of the American people.

Is it any wonder that at the consummation of the Italian-American debt settlement that the dictator of Italy, Premier Mussolini, wired Count Volpi, the Minister of Finance of Italy, and chairman of the Royal War Debt Commission, in part as follows:

I desire to express my full appreciation of the settlement reached which represents a happy conciliation of interests, as well as the acknowledgment of the justice of our case and of our real capabilities.

Please convey to the members of the American commission the expression of my gratification, voicing the sentiments of the Italian people.

The above quotation is taken from the statement given to the press at the time of the signing of the debt agreement, which is filed as Exhibit 73 in the hearings upon this bill before the Ways and Means Committee.

Little wonder is it that Premier Mussolini and the Italian people were pleased. They recognized the fact to be that during the next 32 years they will not pay—without adding any interest charge—the postarmistice debt, amounting to $616,000,000—money which our people loaned Italy after the last gun had ceased firing; and which sum we as citizens of Amer-

ica must pay; in other words, during the first 32 years this agreement will run, they will not pay us one-fourth of their obligation.

J. P. MORGAN & CO.

The advocates of this settlement endeavor to support their position in part upon the fact that all of the original indebtedness save $80,000,000 was spent in this country. To be perfectly frank, I do not get the force of this argument. I assume that Italy got value received for this money. I have heard no charge to the contrary. However, if such condition did not exist, I take it that it is merely another case where war profiteers and international bankers have feathered their nests. It may be that such persons are now repentent of having fleeced them, in consequence of which they vehemently urge this funding agreement.

However, I feel certain that one very prominent international banking group did not participate in any improper trading with the Italian Government during war days, or else there is a deeper-seated reason for the Italian Government continuing their business relations with it. The firm to which I refer is J. P. Morgan & Co., whom, I am told from the hearings, made a loan to the Italian Government immediately after the signing of the debt settlement by the commission. This loan was made to the Italian Government in the sum of $100,000,000, of which amount $50,000,000 was paid to the Morgan firm for moneys which had theretofore been loaned it to stabilize its currency; and the other sum of $9,000,000 was paid to the Morgan firm as commission. Taking the total amount of the loan, the commissions were 9 per cent; but if you take the amount which Italy received after she paid off her obligation to Morgan & Co., the rate of commission was 18 per cent; and, according to Secretary Mellon, the Italian Government agreed to pay Morgan & Co. between 7 and 8 per cent per annum for the use of this money. Counting the first year's interest at seven and one-half million dollars, it can easily be seen that at the end of the first year, excluding any payment on principal, Italy could only have $33,500,000.

At first blush I was of the opinion that the Italian Government made a bad trade when they paid Morgan & Co. $9,000,000 in commission and between seven and eight million dollars per year in interest charge for this loan. It may be that they made a wonderfully fine trade if, in consequence of Morgan & Co.'s interest having been so well cared for in this international loan, it has seen fit to use its influence in putting across this debt settlement which would save Italy millions and millions of dollars.

At any rate, we see the spectacle, immediately after the debt settlement is signed, of this Italian Government floating a loan paying 18 per cent commission upon the amount that they actually receive and agreeing to pay between 7 and 8 per cent to a private concern in interest charge, and being called upon to pay a friend to it in time of its greatest national peril an interest charge of forty-two hundredths of 1 per cent per annum.

In my observation I would not be understood to minimize in any degree the arduous labors of our debt commission, in which my distinguished friend from Georgia [Mr. CRISP] played a most important rôle. Intimate acquaintanceship with Judge CRISP leaves no doubt in my mind of his earnest sincerity in bringing to us this bill for consideration. However, I am constrained to believe from his statement before the committee, together with the language used in the splendid report upon this bill, that he, and probably our entire debt commission, was controlled by the facts presented to them by the Italian Government in respect of their plight to-day. It is but natural that a debtor country would not paint in roseate hue its economic advantages in the presentation of its plea for the lowest possible settlement it could procure. And I do not permit newspaper articles, magazine articles, or other statements to becloud my mind relative to their present capacity to pay.

For the sake of this discussion, I assume that our debt commission is correct in their attitude that the economic situation in Italy to-day is at low ebb. However, man can not determine what the morrow may bring forth. Within three to five years there may be such an industrial awakening in Italy that we could get something back in lieu of the moneys which we have expended in carrying this loan for them. At any rate, if we lost it all and Italy did not pay a cent of its debt, according to the figures of the Treasury Department, submitted by Mr. Mellon, the present cash value of the debt settlement to us is $538,000,000. A small ray of light may be seen in the economic future of Italy in the fact that she has risen from the eighth nation in shipbuilding before the war to fourth position in that industry at this time. To show that her growth is a present one, we are told that she has moved from sixth to fourth position within the last two years.

The question of her ability to pay depends, among other things, upon her ability to export her commodities. She is a country that produces lemons in considerable quantity. She is unable to sell lemons in our markets due to a prohibitive tariff of 99 per cent. Being unable to sell her lemons in this country, she does the next best thing she can do in handing us a lemon in this settlement.

In view of the fact that this bill proposes a virtual cancellation of their debt, so far as the first 40 years after the war is concerned, and in view of the magnitude of our national debt and our yearly interest charge therefor, and in view of the tax burden and economic problems of our own people, I can not get the consent of my mind to make this stupendous gift to the Italian Government.

HOWARD UNIVERSITY—THE INTERIOR APPROPRIATION BILL

Mr. THATCHER. Mr. Speaker, I ask unanimous consent to extend my remarks on the Interior Department appropriation bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. THATCHER. Mr. Chairman and gentlemen of the committee, since I have been a Member of this House and as a member of the House Committee on Appropriations I have earnestly supported and voted for appropriations for Howard University. Every year some gentleman on the other side of this Chamber makes a point of order against these items when the Interior Department appropriation bill is read and considered in the Committee of the Whole, and in consequence, under the rule that they are not authorized by some specific act of Congress, the point of order is sustained and the items are thus forced out of the bill.

In this way, notwithstanding the fact that for years and years these items were carried without question in appropriation bills, and the funds thus appropriated were paid out of the Federal Treasury for Howard University purposes, during the past few years this long usage has been disregarded and the items opposed.

In the consideration of this appropriation bill points of order were made against these items by the gentleman from South Carolina [Mr. HARE], and, in consequence, all of them, aggregating $218,000, for the benefit of this great institution of learning, were stricken from the bill. These items as reported by the Appropriations Committee to the House and included in this bill are as follows:

HOWARD UNIVERSITY

For maintenance, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, ice, and stationery, the balance of which shall be paid from donations and other sources, of which sum not less than $2,200 shall be used for normal instruction, $125,000;

For tools, material, salaries of instructors, and other necessary expenses of the department of manual arts, of which amount not to exceed $21,800 may be expended for personal services in the District of Columbia, $28,000;

Medical department: For part cost needed equipment, laboratory supplies, apparatus, and repair of laboratories and buildings, $9,000;

For material and apparatus for chemical, physical, biological, and natural-history studies and use in laboratories of the science hall, including cases and shelving, $5,000;

For books, shelving, furniture, and fixtures for the libraries, $3,000;

For improvement of grounds and repairs of buildings, including replacement of steam line from central heating plant, $30,000;

Fuel and light: For part payment for fuel and light, Freedmen's Hospital and Howard University, $18,000;

Total, Howard University, $218,000.

Howard University is doing a great work in providing higher education for the ambitious and aspiring young men and women of the colored race of this country. I believe it is entitled to the help that it has received from the Federal Government for 45 years or more, and until, in recent years, the indicated opposition in this House has arisen; and so long as I may remain as a Member of this body I shall expect to support all reasonable legislation or appropriations for its benefit.

To cure the present situation which cuts off further appropriations, my worthy colleague on the House Appropriations Committee, who is also chairman of the subcommittee reporting the Interior Department appropriation bill [Mr. CRAMTON], of Michigan, at this session, has introduced a bill for the benefit of Howard University. This bill reads as follows:

A bill (H. R. 393) to amend section 8 of an act entitled "An act to incorporate the Howard University in the District of Columbia," approved March 2, 1867

Be it enacted, etc., That section 8 of an act entitled "An act to incorporate the Howard University in the District of Columbia," approved March 2, 1867, be amended to read as follows:

"SEC. 8. Annual appropriations are hereby authorized to aid in the construction, development, improvement, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Bureau of Education and shall be inspected by the said bureau at least once each year. An annual report making a full exhibit of the affairs of the university shall be presented to Congress each year in the report of the Bureau of Education."

This bill was referred to the House Committee on Education, and that committee, after due consideration of the measure, through its chairman, Mr. REED of New York, has favorably reported the bill back to the House, as H. R. 8466, with the recommendation that the bill as introduced do pass and become a law. The committee report is as follows:

Mr. REED of New York, from the Committee on Education, submitted the following report (to accompany H. R. 8466):

"The Committee on Education, to which was referred H. R. 8466, a bill to amend section 8 of an act entitled 'An act to incorporate the Howard University in the District of Columbia,' approved March 2, 1867, by authorizing Federal appropriations to aid in the construction, development, improvement, and maintenance of said university, having considered said bill, reports favorably thereon with the recommendation that the bill do pass as introduced.

"Howard University was incorporated under the act of March 2, 1867. The first Federal appropriation for its aid was granted March 3, 1879. From that date the Federal Government has annually contributed to the construction, maintenance, and development of the institution, $221,000 being the largest amount appropriated for maintenance in any one year. Since the establishment of the Budget system, however, and the consolidation of all jurisdiction over appropriations in one committee of the House, items recommended by the Budget and approved by the Committee on Appropriations have frequently been stricken out in the House on the point of order that such appropriations are not authorized by existing law. The purpose of this bill is to authorize such appropriations for the maintenance, development, improvement, and construction of Howard University as Congress may annually desire to make.

"The university has an attendance of about 2,000 students, who are required to pay tuition and provide for their own living expenses. It has been thoroughly investigated by the college rating board of the Maryland and Middle States district and rated in class A. Thirty-eight States and 13 countries are represented in its attendance. President Durkee gives it as his judgment that fully 97 per cent of those who have attended Howard have 'stood up in the country as centers of influence for good.'

"Apart from the precedent established by 45 years of congressional action, the committee feels that Federal aid to Howard University is fully justified by the national importance of the negro problem. For many years past it has been felt that the American people owed an obligation to the Indian, whom they dispossessed of his land, and annual appropriations of sizable amounts have been passed by Congress in fulfillment of this obligation. The obligation in favor of the Negro race would seem to be even stronger than in the case of the Indian. The negro was not robbed of his land as was the Indian, but he was seized by force and brought unwillingly to a strange country, where for generations he was the slave of the white man, and where, as a race, he has since been compelled to eke out a meager and precarious existence.

"Moreover, financial aid has been and still is extended by the Federal Government to the so-called land-grant colleges of the various States. While it is true that negroes may be admitted to these colleges, the conditions of admission are very much restricted, and generally it may be said that these colleges are not at all available to the negro, except for agricultural and industrial education. This is particularly so in the professional medical schools, so that the only class A school in America for training colored doctors, dentists, and pharmacists is Howard University, it being the only place where complete clinical work can be secured by the colored student.

"There is furthermore a strong practical reason why a school like Howard University should be maintained in the District of Columbia. The Freedmen's Hospital was authorized by Congress in 1904, and was built upon land owned by Howard University. The university generously leased the land to the Federal Government for 99 years, at $1 a year, with a privilege of renewal for a like period. The existence of this hospital so near to the medical school of Howard University affords the students of the university an opportunity which exists nowhere else in this country to acquire the clinical instruction which is necessary to complete each student's medical course. On the other hand, this opportunity exists for white students in every State of the Union.

"In addition to the great importance to the country of having an institution capable of developing trained leaders for the colored race in all walks of life, the urgent necessity of making possible a supply of properly trained physicians of that race for the protection of the health of all our people, white as well as black, must be plain to every fair-minded American citizen."

I fully approve the reasons urged by the Committee on Education for the passage of this measure. Its passage will give to Congress explicit and complete authority to make these appropriations. The 250 years, or more, of unrequited toil of the Negro race in this country; the loyalty of that race, and its sacrifices in every war for the American flag and for white Americans; its utter impoverishment and handicap at the close of the Civil War, and its loyal Americanism and capacity for progress so amply demonstrated since that war,—all constitute, in my judgment, all-powerful and convincing reasons why this great Republic of ours, which must depend on universal education and universal suffrage as the two great pillars of its support, should make a just and reasonable contribution toward the education of the race.

I shall, therefore, take great pleasure in supporting the pending bill, and I hope that at this session of Congress it may be enacted into law.

LEAVE OF ABSENCE

Mr. PATTERSON, by unanimous consent, was granted leave of absence for two days, on account of important business.

ADJOURNMENT

Mr. ZIHLMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 50 minutes p. m.) the House adjourned until to-morrow, Tuesday, January 12, 1926, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

226. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year ending June 30, 1926, for the War Department for the erection of tablets or form of memorials in memory of John Adams and John Quincy Adams (H. Doc. No. 206); to the Committee on Appropriations and ordered to be printed.

267. A letter from the Postmaster General, transmitting the claim of Mr. Joseph Jameson, postmaster at Lorain, Ohio, for credit on account of loss sustained in a burglary of the post office on March 1, 1925; to the Committee on Claims.

268. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the Post Office Department for the fiscal year ending June 30, 1926, $100,688,175.84; also a draft of proposed legislation affecting an existing appropriation (H. Doc. No. 207); to the Committee on Appropriations and ordered to be printed.

269. A letter from the Secretary of War, transmitting a bill amending an act approved March 4, 1925, entitled "An act to provide for the carrying out of the award of the National Labor Board of July 31, 1918, in favor of certain employees of the Bethlehem Steel Co.; to the Committee on Claims.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 3580) granting a pension to Richard H. Williams, alias Humphrey Price; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 4916) granting a pension to Alma Halbrook; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 5902) granting an increase of pension to Ella Wright; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARSS: A bill (H. R. 7358) providing for the erection of a Federal building at Hibbing, in the county of St. Louis, in the State of Minnesota; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7359) to provide for the erection of a Federal building at Duluth, in the county of St. Louis, in the State of Minnesota; to the Committee on Public Buildings and Grounds.

By Mr. WARREN: A bill (H. R. 7360) to purchase a site and erect a post-office building at Ahoskie, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7361) to purchase a site and erect a post-office building at Hertford, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7362) to purchase a site and erect a post-office building at Farmville, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7363) to purchase a site and erect a post-office building at Ayden, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7364) to purchase a site and erect a post-office building at Williamston, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7365) to purchase a site and erect a post-office building at Plymouth, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7366) to purchase a site and erect a post-office building at Belhaven, N. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7367) to erect a post-office building at Edenton, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. TILLMAN: A bill (H. R. 7368) to authorize the payment of 50 per cent of the proceeds arising from the sale of timber from the national forest reserves in the State of Arkansas to the promotion of agriculture, domestic economy, animal husbandry, and dairying within the State of Arkansas, and for other purposes; to the Committee on Agriculture.

By Mr. BLAND: A bill (H. R. 7369) granting the consent of Congress to the Wakefield National Memorial Association to build upon Government-owned land at Wakefield, Westmoreland County, Va., a replica of the house in which George Washington was born, and for other purposes; to the Committee on Military Affairs.

By Mr. SINNOTT (by departmental request): A bill (H. R. 7370) to amend an act entitled "An act to authorize the sale of burned timber on the public domain," approved March 4, 1913; to the Committee on the Public Lands.

Also (by departmental request), a bill (H. R. 7371) to define trespass on coal land of the United States and to provide a penalty therefor; to the Committee on the Public Lands.

Also (by departmental request), a bill (H. R. 7372) to amend section 27 of the general leasing act approved February 25, 1920 (41 Stat. L. p. 437); to the Committee on the Public Lands.

By Mr. DENISON: A bill (H. R. 7373) granting the consent of Congress to Harry E. Bovay to construct, maintain, and operate bridges across the Mississippi and Ohio Rivers at Cairo, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. DICKSTEIN: A bill (H. R. 7374) to amend section of the food and drugs act, approved June 30, 1906, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER: A bill (H. R. 7375) to further increase aviation in the Navy; to the Committee on Naval Affairs.

By Mr. FULLER: A bill (H. R. 7376) to amend section 1 of an act entitled "An act for the appointment of an additional circuit judge for the fourth judicial circuit, for the appointment of additional district judges for certain districts, providing for an annual conference of certain judges, and for other purposes," approved September 14, 1922; to the Committee on the Judiciary.

By Mr. GOLDSBOROUGH: A bill (H. R. 7377) for the erection of a public building in the town of Crisfield, Md.; to the Committee on Public Buildings and Grounds.

By Mr. LEAVITT: A bill (H. R. 7378) providing for the holding of terms of the United States district court at Lewistown, Mont.; to the Committee on the Judiciary.

By Mr. JACOBSTEIN: A bill (H. R. 7379) to amend the immigration act of 1924; to the Committee on Immigration and Naturalization.

By Mr. MOORE of Virginia: A bill (H. R. 7380) to repeal a part of section 12, chapter 353, Thirty-first United States Statutes at Large, as heretofore amended; to the Committee on the District of Columbia.

By Mr. STRONG of Kansas: A bill (H. R. 7381) to provide for the purchase of a site and the erection of a public building thereon at Belleville, in the State of Kansas; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 7382) for the establishment of a Pacific coast national highway system; authorizing examination, survey, and report to the War Department, as a preliminary to the improvement, construction, and maintenance of a system of motor-truck highways to meet the transport requirements of heavy commerce in time of peace and of heavy ordnance in time of war and to serve as post roads, with proper and sufficient laterals, in the States of California, Oregon, and Washington; to the Committee on Military Affairs.

Also, a bill (H. R. 7383) for the erection of a public building at the city of Placerville, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7384) for the erection of a public building in the city of Auburn, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7385) for the erection of a public building at the city of Yreka, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7386) for the erection of a public building at the city of Redding, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7387) for the erection of a public building at the city of Susanville, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 7388) for the erection of a public building at the city of Alturas, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. SMITHWICK: A bill (H. R. 7389) for enlargement of the Federal building at Pensacola, Fla.; to the Committee on Public Buildings and Grounds.

By Mr. MERRITT: A bill (H. R. 7390) to amend and reenact subdivision (a) of section 209 of the transportation act, 1920; to the Committee on Interstate and Foreign Commerce.

By Mr. DOMINICK: A bill (H. R. 7391) to amend and reenact section 105, chapter 5, of the Judicial Code, and for other purposes; to the Committee on the Judiciary.

By Mr. ADKINS: A bill (H. R. 7392) to stimulate commerce in agricultural products and provisions with foreign countries, to encourage agriculture in the United States, and for other purposes; to the Committee on Agriculture.

By Mr. RAINEY: A bill (H. R. 7393) declaring an emergency in respect to certain agricultural commodities, and for other purposes; to the Committee on Agriculture.

By Mr. GALLIVAN: Joint resolution (H. J. Res. 112) establishing a commission for the participation of the United States in the observance of the one hundred and fiftieth anniversary of the evacuation of Boston by the British troops, authorizing an appropriation to be utilized in connection with such observance, and for other purposes; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ARNOLD: A bill (H. R. 7394) granting a pension to Mary R. Madden; to the Committee on Invalid Pensions.

By Mr. BRITTEN: A bill (H. R. 7395) for the relief of Emanuel Xuereb; to the Committee on Naval Affairs.

By Mr. CRAMTON: A bill (H. R. 7396) granting an increase of pension to Hannah J. Clark; to the Committee on Pensions.

By Mr. DARROW: A bill (H. R. 7397) for the relief of Ralph C. Busser; to the Committee on War Claims.

By Mr. DYER: A bill (H. R. 7398) granting an increase of pension to Philip Schumacher; to the Committee on Pensions.

By Mr. FLAHERTY: A bill (H. R. 7399) for the relief of David I. Brown; to the Committee on Military Affairs.

By Mr. FULLER: A bill (H. R. 7400) granting an increase of pension to Josephine Logan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7401) granting a pension to Elizabeth Burke; to the Committee on Invalid Pensions.

By Mr. GIFFORD: A bill (H. R. 7402) for the relief of Moises Silva; to the Committee on Claims.

Also, a bill (H. R. 7403) for the relief of John E. Luby, of New Bedford, Mass.; to the Committee on Claims.

By Mr. GOLDSBOROUGH: A bill (H. R. 7404) granting a pension to Henrietta B. Youngs; to the Committee on Invalid Pensions.

By Mr. HARDY: A bill (H. R. 7405) removing the charge of desertion from the name of George A. McKenzie, alias William A. Williams; to the Committee on Military Affairs.

By Mr. HAWES: A bill (H. R. 7406) granting an increase of pension to Melvina Foster; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Illinois: A bill (H. R. 7407) granting an increase of pension to Helen Underwood; to the Committee on Invalid Pensions.

By Mrs. KAHN: A bill (H. R. 7408) for the relief of Joseph A. McCarthy; to the Committee on Claims.

By Mr. KETCHAM: A bill (H. R. 7409) to correct the military record of Sylvester De Forest; to the Committee on Military Affairs..

By Mr. KIESS: A bill (H. R. 7410) for the relief of John A. Odell; to the Committee on Military Affairs.

Also, a bill (H. R. 7411) granting a pension to George D. Helwig; to the Committee on Invalid Pensions.

By Mr. LUCE: A bill (H. R. 7412) granting a pension to Martin Rourke; to the Committee on Pensions.

By Mr. MOORE of Ohio: A bill (H. R. 7413) granting an increase of pension to Lydia L. Shepler; to the Committee on Invalid Pensions.

By Mr. O'CONNELL of Rhode Island: A bill (H. R. 7414) granting an increase of pension to Estella Bolster; to the Committee on Pensions.

By Mr. PRATT: A bill (H. R. 7415) granting an increase of pension to Helen L. Porter; to the Committee on Invalid Pensions.

By Mr. RAKER: A bill (H. R. 7416) for the relief W. F. Peck and M. B. Gott; to the Committee on Claims.

Also, a bill (H. R. 7417) for the relief of J. A. Perry; to the Committee on Claims.

By Mr. SANDERS of New York: A bill (H. R. 7418) granting a pension to Anna Hoffman; to the Committee on Invalid Pensions.

By Mr. SMITH: A bill (H. R. 7419) granting an increase of pension to Nancy A. Stewart; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 7420) granting an increase of pension to Florence I. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7421) granting an increase of pension to Elizabeth Gregory; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7422) granting a pension to Lillian L. Near; to the Committee on Invalid Pensions.

By Mr. SWING: A bill (H. R. 7423) granting an increase of pension to John W. Horton; to the Committee on Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 7424) for the relief of the Guamoco Mining Co.; to the Committee on Claims.

Also, a bill (H. R. 7425) granting a pension to James M. Allen; to the Committee on Pensions.

Also, a bill (H. R. 7426) granting a pension to Angeline Norman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7427) granting a pension to Lillard Collins; to the Committee on Pensions.

Also, a bill (H. R. 7428) granting an increase of pension to James K. White; to the Committee on Pensions.

By Mr. THATCHER: A bill (H. R. 7429) for the relief of Joseph L. Rahm; to the Committee on Military Affairs.

By Mr. THURSTON: A bill (H. R. 7430) granting an increase of pension to Walter A. Fleming; to the Committee on Pensions.

Also, a bill (H. R. 7431) granting an increase of pension to Lucia Clark; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7432) granting an increase of pension to Louisa White; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7433) granting an increase of pension to Melissa J. Jaques; to the Committee on Invalid Pensions.

By Mr. TILLMAN: A bill (H. R. 7434) for the relief of John I. Barnes; to the Committee on Claims.

Also, a bill (H. R. 7435) for the relief of Robert M. Angus; to the Committee on Military Affairs.

Also, a bill (H. R. 7436) granting a pension to Addie Bayles; to the Committee on Pensions.

Also, a bill (H. R. 7437) granting a pension to John Son; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7438) granting a pension to Nancy E. Huff; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7439) granting an increase of pension to Ida Alexander; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7440) granting an increase of pension to Charity Maynard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7441) granting a pension to Mary A. Thompson; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 7442) granting an increase of pension to Katie J. Jerolmon; to the Committee on Invalid Pensions.

By Mr. TOLLEY: A bill (H. R. 7443) granting an increase of pension to Emma Wheeler; to the Committee on Invalid Pensions.

By Mr. WEAVER: A bill (H. R. 7444) granting a pension to Elizabeth Ramsey; to the Committee on Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 7445) granting an increase of pension to Mary J. Seel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7446) granting an increase of pension to Emily J. Cambron; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7447) granting an increase of pension to Charles O. Ryan; to the Committee on Pensions.

By Mr. WYANT: A bill (H. R. 7448) granting an increase of pension to Emma Gordon; to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 7449) for the erection of a public building in the city of Eminence, Ky., and authorizing money to be appropriated therefor; to the Committee on Public Buildings and Grounds.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

338. By Mr. BARBOUR: Resolution adopted by Modesto-Turlock Typographical Union, No. 689, of Modesto, Calif., urging a revision of the postal laws relating to rates on direct mail advertising; to the Committee on the Post Office and Post Roads.

339. By Mr. DYER: Petition of sundry citizens of St. Louis, Mo., requesting legislation that will correct the classification law concerning Federal employees except the Post Office Service; to the Committee on the Civil Service.

340. By Mr. LEATHERWOOD: Resolution of the Chamber of Commerce, Cedar City, Utah, supporting Federal aid on interstate highways; to the Committee on Roads.

341. By Mr. ROUSE: Resolution of Joe Hooker Women's Relief Corps, of Dayton, Campbell County, Ky., indorsing the increase of pensions for Civil War veterans and their widows; to the Committee on Invalid Pensions.

342. By Mr. YATES: Petition of the Western Society of Engineers, by its board of directors, 53 West Jackson Boulevard, Chicago, praying in the name of 2,500 Western engineers that Congress pass the selective service law prepared by the Secretary of War so that an effective draft may be devised capable of being put into instant operation; to the Committee on Military Affairs.

343. Also, petition from Hon. James P. Ringley, president of the Cook County Association of the American Legion, favoring the holding of the Army-Navy game in Chicago in 1926; to the Committee on Military Affairs.

SENATE

TUESDAY, *January 12, 1926*

(Legislative day of Thursday, January 7, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	La Follette	Robinson, Ind.
Bayard	Fletcher	Lenroot	Sackett
Bingham	Frazier	McKellar	Schall
Blease	George	McKinley	Sheppard
Borah	Gerry	McLean	Shipstead
Bratton	Gillett	McMaster	Shortridge
Brookhart	Glass	McNary	Simmons
Broussard	Goff	Mayfield	Smith
Bruce	Gooding	Means	Smoot
Butler	Greene	Metcalf	Stanfield
Cameron	Hale	Moses	Stephens
Capper	Harreld	Neely	Swanson
Caraway	Harris	Norris	Trammell
Copeland	Harrison	Oddie	Tyson
Couzens	Heflin	Overman	Underwood
Curtis	Howell	Pepper	Wadsworth
Dale	Johnson	Pine	Walsh
Deneen	Jones, N. Mex.	Pittman	Warren
Dill	Jones, Wash.	Ransdell	Watson
Edge	Kendrick	Reed, Mo.	Wheeler
Ernst	Keyes	Reed, Pa.	Williams
Ferris	King	Robinson, Ark.	Willis

The VICE PRESIDENT. Eighty-eight Senators having answered to their names, a quorum is present.